Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1998

MARK B. RASMUSSON, et. al.,

Petitioners,

v.

LAWRENCE E. FROST, et. al.,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

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APPENDIX D
Respondents' Depositions Excerpts

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IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

MARK B. RASMUSSON,	*		
ET AL	*		
	*		
VS.	*	CIVIL ACTION:	
	*	EP-95-CA-475-F	
LAWRENCE E. FROST,	*		
ET AL	*		

VIDEOTAPED DEPOSITION OF

LAWRENCE E. FROST

January 10, 1997

Is there any reason at all why you cannot testify accurately here today?

A No.

Q Okay. Do you have any questions about what I've just told you or about this deposition?

A No.

Q Okay. Mr. Frost, have you ever been a subject of a complaint alleging abuse of authority, excessive force, intimidation, falsification of records or other violation of U. S. Customs policy or regulation?

MR. ROBINSON: Objection. The purpose of this deposition is to elicit facts pertinent and relevant to the issue of qualified immunity.

His past conduct is not relevant to the incidents that -- that are alleged in the complaint.

MS. SHEPPARD: Are you instructing the witness not to answer the question?

MR. ROBINSON: That's correct.

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Q (By Ms. Sheppard) Mr. Frost, prior to March of 1992, had you attended any law enforcement school for document analysis and drug smuggling?

A As I understand it, you want to know if I have attended schools on document analysis --

Q Right.

A -- or drug smuggling?

Q Yes.

A I have no expertise in document analysis. I was not trained there. I have attended training in drug smuggling.

Q Okay. Have you received any training in document -- document analysis related to money laundering, mail fraud, kickback schemes or tax evasion?

A No.

Q Okay. Now, when you first arrived in El Paso, Texas, did U. S. Customs Service have an active case on Mark Rasmusson and the other plaintiffs?

A Yes, they did.

Q Okay. And what -- who was the case agent?

A John Peterson.

Q John Peterson. And what was the date of the investigation, previous investigation?

A I have to clarify that. It's not a previous investigation. It's the same investigation.

Q Okay. And when did this investigation begin?

A It would have been late 1989.

Q Okay. And what was the basis of that investigation?

A The reports indicate that there were allegations of money laundering and currency smuggling.

Q Okay. And what -- did you review all of the case files that U. S. Customs

Service had on Mark Rasmusson and Rasmark and Deborah Rasmusson?

A I reviewed all of the files that were available to me. I don't know of any others.

Q Okay. And what factual basis did you find those files to support allegations of money laundering or drug smuggling or tax

evasion or kickback scheme against Mark Rasmusson, Deborah Rasmusson, Andrew Gantkessy and Rasmark?

MR. ROBINSON: I'll object. I think that's a very overly broad, open-ended question. To ask every fact that he had to substantiate what you just said

said --

MS. SHEPPARD: Okay.

MR. ROBINSON: -- is a virtual impossibility.

Q (By Ms. Sheppard) Okay. When -- when you opened up the financial task force case, then it's just a continuation of the case that John Peterson started in 1989?

A I didn't open a case.

Q Okay. So what did you do?

A I was assigned a case that was already open.

Q Okay. Now, when the -- explain how the financial task force came into the picture.

A I don't understand what you want.

Q Okay. When was the financial task

force formed?

A I believe that would have been approximately March of 1992, as I recall.

Q Okay. And what was the purpose of the financial task force?

A To conduct investigations into complex money laundering and conspiracies.

Q Okay. And who made the decision to include Mark B. Rasmusson and the other plaintiffs in this investigation?

A In the financial investigation?

Q Yes.

A John Peterson, the original case agent.

Q Okay. Did you do a background check on Mark B. Rasmusson and the other plaintiffs?

A You'll have to clarify what you mean by "background check".

Q Okay. Did you check all of the law enforcement databases? Do you -- did you an EPIC search?

A Yes, I did.

Q Okay. And what information were you able to obtain from the EPIC search?

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A I don't recall specifics. I don't have the case files here with me.

Q Okay. What date did you perform that EPIC search?

A I don't recall.

Q Was it performed prior to March of 1992?

A No, ma'am.

Q Okay. Did you check with the other law enforcement agencies to see what information they had in their databases concerning informants that might have had contact with Mark B. Rasmusson or any of the other plaintiffs?

A Which other agencies are you referring to?

Q FBI, DEA, DPS, El Paso Police Department, El Paso Sheriff Department, INS, FAA.

A I requested all participating agencies to provide any information they had or informant debriefings.

Q Okay. Did you attempt to make a determination of Mark B. Rasmusson is known source of money; such as his salary, business

income, loans, gifts, inheritances to see if they justify his lifestyle?

A Yes, we did.

Q Okay. And what information did you find?

A I did not personally perform that networth analysis that you're referring to.

Q Who performed that analysis?

A It would have been a Mr. Hector Barrera and a couple of different agents from the Internal Revenues Service.

Q Okay. And when was that analysis performed?

A It was a continuing analysis during the years 1992 and 1993.

Q You said "continuing analysis"?

A Correct.

Q It began in 1992?
A I believe so.
Q Okay. Do you know approximately what month?
A No, ma'am.
Q Okay. And did you search -- did you or did you have anyone else on your behalf search the probate records to prove or

disprove Mr. Rasmusson's inheritance?
A Yes, we did, to the extent possible.
Q What did you find?
A I traveled to Sacramento, California, obtained what documents were available when I was there. The probate was very confusing and disarrayed. And we had to

order some records, which we never received.

Q Okay. Did the records show that he, indeed, had received an inheritance?

A Yes, they did.

Q Now, after -- excuse me. After searching all of these databases, the EPIC databases, all of the other agencies that you consulted with, what information did you find that led you to believe that Mark B. Rasmusson was engaged in or engaging in between June 1991 and March of 1992 drug smuggling or money laundering?

A As I stated previously, I don't have the case file. I cannot articulate specific allegations at this point.

Q Okay. Did you read any documents prior to coming to this deposition?

A I looked through the search warrant affidavits for the residence and the business.

Q Okay. And did you -- and from reading your affidavits to the search warrants -- well, let's go back to my original question.

Between June 1991 and March 1992, did you uncover any facts that support that Mark B. Rasmusson or any of the plaintiffs were connected with any type of drug smuggling or money laundering activities?

A Between June 1991 and March 1992?

Q Yes.

A I was not investigating them at that time, ma'am.

Q Okay. You said you checked the case file. Did you find any factual basis in the case files of John Peterson or any of the other Customs agents participating in the investigation, did you find any facts that showed between June 1991 and March 1992 that Mark B. Rasmusson and other plaintiffs were participating in drug smuggling or money laundering?

A I don't recall specific allegations relating to date, per se.

Q Okay. Now, you stated in your affidavit you read all of the DEA case files, all of the criminal trial transcripts from the previous charge against Mark Rasmusson.

Now, the criminal trial transcript

indicates that Attorney Richard Escra in his opening statement talked about Mark B. Rasmusson's inheritances, the early beginning of his business in Nevada and Michigan. Did you or any member of the task force attempt to corroborate any other details that -- pertaining to the inheritance, besides what you already told me?

A None, other than interviews with people that had known Mr. Rasmusson for some time.

Q And who did you interview?

A I don't recall specifically at this time. I'd need think the reports of investigation by the agents that did the interviews.

Q Okay. Now, the DEA case files indicate that the DEA subpoenaed numerous

financial records from Albert Apodaca, the CPA for the Rasmussons and Rasmark. Did you or any member of the task force review those financial records?

A I don't recall if we reviewed the records the DEA obtained in the original investigation.

Q Okay. So are you saying that you did not review all the records or are you saying you did not have the records -- a document analysis done of the records?

A I'm saying that I do not know if the records from the original DEA investigation were used in the analysis or not.

Q All right. Now, you were the case agent assigned for the financial task force. Isn't that correct?

A That is correct.

Q Did you instruct anyone to review those documents and do a document analysis?

A As I've stated before, I do not recall if the original documents from the DEA case that were taken from Apodaca and Jensen were used in our analysis or not.

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Q Okay. Prior to launching your task force investigation, did you or anyone on behalf of the task force or U. S. Customs do an asset investigation of Mark B. Rasmusson?

A Prior to the initiation of the task force investigation?

Q Yes.

A I don't know if Mr. Peterson did that or not. I don't recall any record of it.

Q Okay. Did you do an asset investigation, you or did you instruct anyone else on your behalf to do an asset investigation?

A Yes, I did.

Q Okay. And who did you instruct to do the asset investigation?

A That task would have been assigned to Intell Specialist, Lee Whitest and Auditor Hector Barrera. And I believe Internal Revenue Service special agents also participated in that.

Q Okay. And as part of that asset

investigation, did you check the -- did they check the UCC filings to see what -- if any financing records were available to

the investigation.

Q Okay. Now, what was that agent's name?

A There was a change at some point, but the original agent assigned, as I recall, was Jack Geller.

Q Okay. Did the FBI ever furnish a full-time special agent to work on your task force?

A Yes, they did.

Q Okay. And who was that?

A Special Agent Joe Acosta --

Q All right.

A -- during the time that -- and then Special Agent Lisa Murphy relied him.

Q Okay. What period of time? Do you recall what period of time they worked?

A Joe Acosta was assigned at the onset of the task force, which would have been approximately March of 1992. I don't remember when he left. And there was a period where there was no FBI agent. And then Lisa Murphy was assigned. And I do not recall when she got there.

Q Okay. What additional factual

information did you develop after the -- after Mark B. Rasmusson trial that convinced you that Mark Rasmusson was involved in money laundering of narcotic traffic -- trafficking

activities?

A Without the case files, ma'am, I'd be speculating.

Q Okay. Was U. S. Custom Service part of the OLCEDEF case that investigated Flores?

A Yes. There were custom agents assigned to that task force.

Q Okay. And do you know who the case agent was?

A No. I was not in El Paso at that time.

Q All right. When did the OLCEDEF committee first meet to consider Rasmark investigation as an OLCEDEF case?

A Which Rasmark investigation?

Q The one that you conducted.

A Ma'am, I didn't testify that it was an OLCEDEF case.

24 Q Okay. So was the financial task
25 force case ever certified as an OLCEDEF case?

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1 up the question on me there.
2 Now, do you want to know what
3 information I have that says that they know
4 him and are associated with him or do you want
5 to know what information I have that states
6 that he's committed a crime with them?
7 Q Okay. Answer the first question.
8 What information do you have that he knows
9 these individuals, know Hector Saenz,
10 S-a-e-n-z, and Ricardo Valdez?
11 A I have no information independent
12 of this regarding Ricardo Valdez. So far as
13 Hector Saenz, we have circumstantial
14 information that associates Mark Rasmusson

with him.

Q And what is that circumstantial evidence?

A Mr. Saenz is associated with a gentleman by the name of Guellermo Portillo Corral. Mark Rasmusson also has a business association with Mr. Guellermo Portillo Corral.

Q And when was this business association?

A I don't recall. I would need my

case file.

Q And because Mark Rasmusson had a business association with Mr. Portillo, that means that he also has a business association with someone that knows Mr. Portillo. Is that

what you're saying?

A No. I find him to be associated with the name the same as the informant came up with.

Q Okay. Is there any other information you have that -- what information did you underover that Mr. Rasmusson participated in any criminal activity? Do you have any specific instances where Mr. Rasmusson was transferring money or drugs for any proceeds of drug smuggling activities?

MR. ROBINSON: I'll object. It's a misleading question and overly broad. Are you talking about the DEA case that led to Mr. Rasmusson's indictment or are you talking about the task force that Mr. Frost was working on? You need to be more specific in your

25 questions.

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1 Q (By Ms. Sheppard) Okay. With
2 regard to the financial task force that you
3 were the case agent for, what independent
4 corroboration did your task force -- did you
5 or any members of your task force obtain --
6 that indicate that Mark B. Rasmusson was
7 participating in money laundering activities?
8 A So far as the money laundering
9 activities through his association with
10 Guellermo Portillo, we seized one of the
11 aircraft, which we -- which belonged to maybe
12 Mr. Portillo, maybe Mr. Rasmusson, depending
13 upon how you read the registration.
14 Under the money laundering
15 statutes, we found that Mr. Rasmusson has

unreported financial dealings in Mexico.

We have an allegation from his spouse that he has extensive bank accounts in other countries, which he has not reported to the U. S. Government as required.

Q You're speaking of who has the unreported bank accounts?

A Mr. Rasmusson.

Q Okay. What unreported bank accounts did you uncover?

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A We are aware of a Banomex that we did find documentary evidence of.

Q How many other bank accounts did you find in Mr. Rasmusson's name in foreign countries?

A The only information we have on

those other accounts are the allegations by his spouse.

Q Okay. You're saying that Deborah Rasmusson made an allegation that he had bank that accounts in other countries?

A Correct.

Q Okay. And did you take any steps to corroborate that information?

A What steps we could.

Q Okay. And were you able to uncover any other bank accounts?

A In the countries we attempted to do so, it's very difficult to get that information. We never did get any.

Q Okay. So you're saying you did not uncover any other information?

A No.

Q Okay. When did you first meet George Salas?

actions, I know that.

Q And what actions did they take?

A Delivering the trash to special agents and detectives assigned to the investigation.

Q And where was the trash delivered?

A To agents in the neighborhood where the trash pickup was made.

Q Okay. In your process of obtaining the trash, did you pay these sanitation workers for picking up the trash and giving it to your agents?

A No, ma'am.

Q Do you have a list of the names of the sanitation workers that picked up the trash?

A I don't.

Q Do you record this information in your records?

A Not normally.

Q Okay. And on each occasion that the trash was picked up, you're saying that you went through the process of getting approval from the sanitation department and you had sanitation workers on each occasion to

Rasmusson thought that her office had been broken in on that morning?

A I don't recall, ma'am.

Q Okay. And did George Salas tell you that Deborah Rasmusson had a box of -- box of records that she wanted to report, possibly some missing records?

A Not at that time.

Q Okay. When -- when did you Learn that information?

A Which are we talking about? That she had a box of records or that she wanted to report missing records?

Q That she wanted to report, first of all, missing records that might have been a possible break in at her office. Did George Salas tell you that?

A You're -- you're still asking me two questions at the same time. I can answer those one at a time.

Q Okay. Let's take one at a time.

Did George Salas tell you that Deborah Rasmusson thought that someone might have broken into her office?

A Sometime during the evening, that

statement was made. I don't recall if I was told on the phone or later at the Customs office.

Q Okay. Did you tell George Salas to tell Deborah Rasmusson to bring the box of records with her?

A No, ma'am.

Q Okay. Did George Salas tell you that Deborah Rasmusson had a box of records with her?

A Not until she arrived at the Vicon office carrying the box of records.

Q Okay.

A Let me correct myself.

I don't remember whether she or Officer Salas were correct -- carrying a box of records at that time. However, I believe

it was Officer Salas since we took a firearm from her that she had.

Q Okay. And what did George Salas say to you in relationship to those -- to the box of records?

A Something to the effect that they belonged to Mrs. Rasmusson and she alleged they contained evidence.

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Q Okay. How many other law enforcement officers met George Salas with Deborah Rasmusson and her son in -- in his car at Hawkins and Montana?

A The only officer -- the only agent that Officer Salas had direct contact with at that time was myself. There were other agents in the vicinity.

Q Okay. How many vehicles showed up at that location at Hawkins and Montana?

A I believe there was mine -- if memory serves, two others.

Q Okay. Now, during the interview of Deborah Rasmusson at your office, the Customs office, was she ever furnished any beer or other alcoholic beverage?

A Yes, she was.

Q Okay. Excuse me.

Now, you stated in your affidavit that this interview lasted several hours. Do you note the time that this interview began and the time that it ended?

A It would be in the report. I don't have it with me.

Q Okay. Do you know whether it was

morning, afternoon or night?

A No. It was evening.

Q It was evening.

All right. Who was present when Deborah Rasmusson first arrived at the Customs office?

A Myself, Officer Salas, her son, Ian, Mrs. Rasmusson, Special Agent Eric Mills. I'd have to go back to the reports. I don't remember who else was there at the time. I believe that Group Supervisor Wilczewski was present.

Q Okay. Now, after you talked to George Salas and he told you that he was bringing Deborah Rasmusson to the Customs office, did you, in turn, contact your supervisor and -- to make a report?

A At that time, Assistant Special Agent Don Reay was present at the same location I was. I advised him of the circumstances and he made notifications and assignments as he felt were necessary.

Q Okay. Now, what assignments did he make?

A I recall him sending at least two,

possibly three other agents to the office. And I recall that he was going to notify the supervisor, my direct supervisor.

Q Okay. Now, why did he make those particular assignments? What was the basis?

MR. ROBINSON: I object. Agent Frost has no idea the reasoning Don Reay may have -- the

reasons he had -- subjective reasons he had on making these specific assignments.

Q (By Ms. Sheppard) In your report to your supervisor, Mr. Reay, what did you tell him?

A I told him that Officer Salas had stated that Deborah Rasmusson feared for her life, feared that her husband and his associates were going to do -- were going to kill her. Excuse me.

I advised him of the conditions that I had agreed to meet Deborah Rasmusson, at which time he authorized for a meeting to occur and made the assignments I've mentioned.

Q Okay. Now, what conditions,

specific conditions, are we talking about?

A That she -- if she wished to deal with us, that she was to come in, give us a complete and honest debriefing and provide whatever information she had on criminal activity, at which point, we would take whatever steps were necessary to ensure her safety.

Q Okay. Now --

A And that was relayed through Officer Salas. I did not speak to her on the telephone.

Q Okay. Now, in your opinion, was Deborah Rasmusson high on drugs at the time you interviewed her?

MR. ROBINSON: I'll have to object to the extent that probably

takes some medical testimony,
medical testing.
Q (By Ms. Sheppard) Okay. Now, how many beers did Deborah Rasmusson drink on that particular occasion?
A I don't recall.
Q Isn't it true you purchased a six-pack --

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A Yes, we did.
Q -- of beer for her.
Okay. Isn't it true that she drank the entire six-pack?
A Ma'am, I don't recall if she drank the whole thing.
Q Okay. Is that the normal Customs procedure, is to have a potential witness to

drink a alcoholic beverage before they give a statement to a Customs service?

A Are you asking me if that's normal procedure?

Q Yes.

A No.

Q Did you make a detailed written report of the interview with Deborah Rasmusson?

A Yes, we did.

Q All right. And was Deborah Rasmusson told she was free to leave at any time during this interview?

A We never saw any need to tell her that. She came to our office voluntarily. She was never placed in a cell or in restraints or detained in any way.

Q Okay. During the several hours that you were interviewing Deborah Rasmusson, did you present -- present to her any type of asset forfeiture document?

A No, ma'am.

Q Did you present to her any type of consent form that had an asset forfeiture clause in it?

A No, ma'am.

Q Did you present any type of document to Deborah Rasmusson at all?

A Yes, we did.

Q What type of document did you present to her?

A A consent to search.

Q Okay. Who authorized you to present that form to Deborah Rasmusson?

A No one.
Q All right. Now, at the time that you interviewed Deborah Rasmusson, was the financial task force on -- did the financial task force have any factual basis in their possession to -- to seize Rasmark property?
MR. ROBINSON: Would you reask that question? I didn't

understand it.
Q (By Ms. Sheppard) Okay. Let me rephrase that question.
At the time that you interviewed Deborah Rasmusson, what factual did you have to believe that Mark B. Rasmusson was connected with money laundering activities?
A I'm going to have to ask for

clarification. What do you mean by seize? Seize as in the -- as in a search or seize as in to forfeit and remove the property on behalf of the Government?

Q Well, you stated earlier that your supervisor, Donald Reay, had dispatched agents to Rasmark location?

A Correct.

Q What was the purpose of dispatching agents to Rasmark location?

A Ma'am, I didn't say that he dispatched anyone to Rasmark's location. He assigned agents to accompany me.

Q Okay. Now, did any agents go to Rasmark location?

A Yes. Much later in the evening.

Q Okay. Now, why did they go to the

Rasmark location?

A Because Mrs. Rasmusson had indicated that she was going to sign the consent to search form. She had indicated that there was an employee on premise. And the group supervisor assigned two agents to go to that location to secure that place in case that we were able to make a search to prevent anything from being removed before we got there.

Q Okay. Now, since Deborah Rasmusson did not sign that consent form --

A Yes.

Q -- what factual information did you have to obtain a search warrant to search the Rasmark offices?

A I didn't search the Rasmark offices

until November of 1993 under authority of the search warrants.

Q Yes, I understand that. But at this time in May -- on May 23rd, 1992, what factual basis, what information had you developed to warrant or to give you -- for you to -- well, let me ask it this way. Let me rephrase it.

Did you have sufficient factual basis on May 23rd, 1992 to obtain a search warrant to -- for the Rasmark offices?

A I don't believe so.

Q Okay. Exactly what criminal activities did Deborah Rasmusson tell you that Mark Rasmusson participated in?

A Mrs. Rasmusson alleged that Mark Rasmusson was transporting large amounts of currency out of the United States. Mrs. Rasmusson alleged that Mark Rasmusson and others in town had been engaged in homicides of persons they believed to be informants. Mrs. Rasmusson made numerous allegations against members of the local legal community, etcetera. I would need my reports to get completely into detail, but she made extensive allegations against not only her husband but several other members of the community.

Q Okay. Now, how much of this information did you or any member of the task force corroborate?

A We have never corroborated that Mark Rasmusson has murdered anyone. We never corroborated that he was moving a thousand

pounds of money a week or twice a week, whichever it was that she alleged.

She alleged tax evasion, which there is certainly extensive evidence of. She alleged foreign bank accounts, which there is evidence of.

Q Okay. And you say that you corroborated that Mark Rasmusson was moving large amounts of currency twice a week?

A No, ma'am. I said we never corroborated that.

Q Oh, you never corroborated that?

A That's correct.

Q Okay. And you corroborated that Mark Rasmusson was engaging in tax evasion?

A Certainly seems to be so.

Q Okay. Were there any type of

criminal charges brought against Mark Rasmusson for tax evasion?

A Not that I know of.

Q Okay. What violations of the Bank Secrecy Act did you find?

A Well, for one thing, Mr. Rasmusson maintains a bank account in Mexico, which is not only reported to the United States

Government as required.

Q Okay. Were any charges brought against Mark Rasmusson for violating the Bank Secrecy Act?

A That charge was declined by the United States Attorney's office.

Q Okay. When was that charge submitted to the U. S. Attorney's office?

A I don't recall.

Q Okay. Did you submit that charge to the U. S. Attorney's office?

A It would have been in reports that I forwarded to them. I don't remember if I wrote the specific report or who might have written it.

Q Okay. The box of records that you seized, what was the basis of you taking the records from Deborah Rasmusson on May 23rd, 1992?

A Mrs. Rasmusson stated to two special agents that there was everything that we would ever need to Mark Rasmusson in prison forever contained within that box.

Q She said -- she made that statement to -- to -- to whom?

A I'll have to refer to the affidavit again, ma'am.

Q Well, let me ask you this question. We can come back to that later. Let me ask you this question: After you got the records, the box of records and you got a search warrant and you opened the box of records, did you have a document analysis performed on -- on the records that you seized, that you obtained?

A At some time later. It wasn't done immediately.

Q Okay. Who did the document analysis?

A It would have been done by intelligence analysts from the task force, but I don't recall specifically who I had do that.

Q Okay. And what evidence did they find of money laundering in those documents?

A None that I can recall.

Q Okay. What evidence of drug smuggling did they find in those -- in those records?

A None that I recall.

Q What evidence of tax evasion did

they find in those records?

A That, I would have to go back to the reports on.

Q Okay.

A But there was numerous tax forms and things like that in the box that I'm not familiar with -- with how those things are set up.

Q Well, did you recommend to the IRS that they bring some type of criminal investigation or criminal charges against Mark Rasmusson as a result of those records?

A I made no recommendation to the IRS. I notified the agent in charge of the El Paso office of the circumstances.

Q Okay. And who did you notify in that office?

A Mr. Ed Wintercheck.

Q Okay. And did he review those records?

A I don't believe he did.

Q All right. During your entire investigation, did you ever receive -- ever develop sufficient evidence to seize any of the Rasmark property?

A We seized one aircraft, which it remains under debate who it belongs to.

Q What aircraft is this?

A November 7, Gulf Pappa, N7GP, it's a Lear jet.

Q Okay. And when was this seized?

A I don't recall even which year we got -- we got that aircraft in. We seized it in Houston.

Q Okay. And where was that aircraft -- seized it in Houston?

A Yes.

Q Who was operating that aircraft at that time?

A No one. We seized it out of a hangar.

Q Now, whose hangar was it located in?

A It was in a maintenance depot.

Q Okay. And what records did you find on that aircraft?

A Very minimal on the aircraft. There was log books regarding the repairs that were going on at that time. And that was it.

Q Okay. Did you ever determine who

Q And what did she tell you?

A She stated that the aircraft -- this is from recollection. I don't have my notes with me.

The aircraft came into possession of Rasmark from a Mr. Guellermo Portillo. And somehow or another, they were leasing it from him, but they ended up with a lien against it because he didn't pay them for letting him use

the airplane.

I asked her if they had ever owned the aircraft. She stated, no. However, FAA records state that it was registered to them.

Q Okay.

A Mr. Portillo claims that he gave them the airplane.

Q In your affidavit dated November 19, 1993, you state that the DEA investigation of Mark Rasmusson and Rasmark conducted in 1990 through 1991 was predicated on facts which indicated that Mark Rasmusson and Deborah Rasmusson had provided transportation of controlled substances.

What evidence in the case file, did you see that indicated that Mark Rasmusson

and Deborah Rasmusson or Rasmark Jet Charter, Inc. had transported controlled substances?

A Let me clarify it for you. We're -- we're focusing here on -- on the one DEA investigation, which I believe when you do that, you're discussing the Jesus Flores case; is that correct?

Q That's correct.

A That is not the only series of allegations that were made during that time period regarding Mr. Rasmusson by both DEA and Customs.

Q Okay. What other allegations were made?

A That he was engaged in trafficking, that he was also associated with other narcotics organizations.

Q Okay. What organizations was -- was he associated with?

A Ma'am, I'm not prepared to say he was associated with them. Those are the allegations that are in the files.

Q Did you make any effort -- you or any of the members of the task force make any efforts to corroborate whether Mr. Rasmusson

was associated with any of these organizations?

A The extent of my efforts were discussions with John Peterson who had developed the original cause and information and who provided me with the background information and the reports on this case.

Q Okay. Exactly what connection did they say Mark Rasmusson had? Did they have

any specific -- let me back up.

What specific incidents did the report corroborate involving Mr. Rasmusson?

A Without the case file being here and without a review by Customs' counsel, I'm going to have to decline to answer that due to ongoing investigations.

Q Okay. You're saying that U. S. Customs Service had evidence that Mark Rasmusson was involved in criminal activities?

A Ma'am, the term I used was allegation.

Q Allegation. Okay. Did you ever uncover any evidence to corroborate the allegations?

MR. ROBINSON: Again, are

you talking about the DEA

investigation that led up to the indictment of Mr. Rasmusson?

Q (By Ms. Sheppard) Did you ever uncover any evidence to corroborate, first of all, that the -- well, the financial task force allegations. Did you ever uncover any evidence to corroborate the financial task force allegations that Mark Rasmusson was participating in criminal activities?

A Yes, ma'am.

Q Okay. What -- give me a specific incident in which U. S. Customs Service or the task force uncovered Mark Rasmusson participating in criminal activity?

A Mr. Rasmusson committed a felony under Federal law in doing an illegal wiretap of his estranged wife's residence.

Q Okay.

A Or having that tap done. I don't

know if he did it or had it done.

Q Okay. Now, were charges brought against Mr. Rasmusson for illegal wiretapping?

A No, ma'am. It was declined by the United States Attorney as a domestic matter.

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Q Okay. And did you or someone on the task force present this to the U. S. Attorney's office?

A Yes.

Q Which U. S. Attorney did you present this case to?

A It was presented by Special Agent Acosta. And I do not recall which attorney it was presented to.

Q Okay. And what -- well, let me ask you this question: Did the task force have

any wiretaps placed on Mr. Rasmusson's telephone or Deborah Rasmusson or Rasmark?

A I can't answer that question.

Q What investigative technique did the task force use to corroborate who Mark Rasmusson's criminal associates were?

MR. ROBINSON: I'll object to the extent you're asking him to reveal U. S. Customs Service investigative techniques. That's privileged and he's not authorized to testify regarding those.

Q (By Ms. Sheppard) Can you name -- besides the Flores organization that occurred

prior to financial task force, can you name what organization, criminal organization, that

you are alleging Mark Rasmusson was participating in money laundering with?

A Ma'am, you've named me in my individual capacity in this suit. I cannot discuss anything else that's in the Customs files that are not specifically referenced in these documents.

Q What's the Customs guideline regarding investigative disclosures? Can you just give me generally?

MR. ROBINSON: I'll object to the extent I don't know what you mean by "investigative disclosures".

Q (By Ms. Sheppard) Do you understand the term investigative disclosures, Mr. Frost?

MR. ROBINSON: It doesn't matter whether he understands it

or not. I'm his lawyer and I don't understand the question.

Q (By Ms. Sheppard) Okay. Let me ask this question: Does U. S. Customs Service

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have a policy on restricting dissemination of information, law enforcement information investigation, investigative information.

MR. ROBINSON: To whom?

Q (By Ms. Sheppard) To third parties.

A Repeat the question one more time.

Q Okay. The question is: Does the U. S. Customs Service have a policy on dissemination of information to third parties, other than law enforcement people or organizations?

MR. ROBINSON: I guess I don't understand to the extent -- the FEMA Information Act. Are you asking for handbook policies or manual policies or what?

Q (By Ms. Sheppard) Okay. Well, we'll move on.

Did you attend a meeting on August 18th, 1993 with Phil Asiala, that's A-s-i-a-l-a -- and Tim Parmoville of the Ford Motor Company?

A I met Mr. Asiala. I do not recall the date. And I do not recall if I met Mr.

Parmoville or not.

Q Okay. What was the purpose of this meeting?

A The general purpose of it was to obtain the assistance of Ford Motor Company in providing us with the information in their files regarding the Rasmussons and Rasmark Jet Charter.

Q Okay. Did you tell Mr. Parmoville and Mr. Asiala that intent of the meeting was for you explain the position of the U. S. Customs as it related to Andrew Gantkessy and Rasmark?

A I can't say if that's factual or not. I don't recall.

Q Okay. Did you tell Mr. Parmoville and Mr. Asiala that the Rasmusson and Rasmark were deeply involved in a kickback scheme with Andrew Gantkessy?

A I don't recall if I told them that. I had evidence of that.

Q Okay. On the occasion that you

23 interviewed Mr. Gantkessy, did you reveal the
24 details of that interview to Mr. Parmoville or
25 Mr. Phil Asiala?

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1 A I don't believe I did, no.
2 Q Okay.
3 A It's possible that it was
4 discussed, but I don't know how much detail
5 they were provided with.
6 Q All right. Did you consult with
7 the Customs Service legal counsel about
8 whether you could testify for Ford against
9 Andrew Gantkessy in regard to his activities?
10 A Yes, we did.
11 Q Okay. Who did you consult?
12 A David Lindsey. He's the general
13 counsel here in El Paso.

Q All right. Did you seek legal advice from Mr. Lindsey in regard to whether you should send the letter to Ford that you sent?

A Which letter are you referring to?

Q A letter of July 26th, 1993.

MR. ROBINSON: May you show Mr. Frost a copy of that letter?

THE WITNESS: Yes. This -- I'd have to compare it to the original, but a similar letter was -- was given to Mr. Lindsey.

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Q (By Ms. Sheppard) Okay. And did he approve your sending that letter to Ford Motor Company?

A Apparently, he did. He forwarded

it back to us as I recall. As long as the special agent in charge authorized it, that he didn't see any problem with it.

Q Okay. And who was the special agent that approved the letter?

A Special Agent in charge, Michael Lappe.

Q Okay. Did anyone else assist you in preparing that letter?

A It was reviewed by my supervisor.

Q And who was your supervisor?

A Michael Wilczewski.

Q Okay. The letter provides a synopsis of what you characterized as -- that indicates a conspiracy to commit fraud by Mr. Rasmark and Mr. Gantkessy? Do you normally provide that type of synopsis of your investigation and evidence to third-party witnesses?

A You're going to have to be specific to third-party witness. I can't -- I can't

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answer that question that way.

Q Okay. Is Ford Motor Company a law enforcement agency?

A No, they're not.

Q Okay. Are they working in a capacity as a law enforcement agency?

A Their internal security units are populated generally with retired police officers who provide extensive investigative assistance to agencies such as Customs.

Q So are you saying that they working on behalf of --

A No, ma'am.

Q -- of Federal law enforcement

agencies or local law enforcements agencies?

A No, ma'am. They were on a request for assistance.

Q Okay. Now, were they -- are -- make sure I understand.

They were not working in any capacity for the Government; is that correct?

A They were not agents of myself. I don't know of any Government agency that holds them as agents.

Q Okay. So back to my original

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question, then. Do you normally provide synopsis of your investigation to parties other than law enforcement agencies?

A Not generally to other parties, no.

Q Okay. Why did Ford need to know the scope and nature of your investigation in this particular instance?

A Due to the fact that Ford Motor Company had already performed an extensive investigation of these allegations, had a file on it which we wished to review.

Additionally, they had had other information requested from them. And they were needing guidance as to what it is that we needed within their accounting systems.

Q Okay. Now, in your letter, you stated that you have irrefutable evidence of a crime. What irrefutable evidence do you have?

A Well, the one that came to mind quickest was fraud, mail fraud, etcetera, where it involved Next Flight, Incorporated,

Additionally under the laws of the

State of Texas as explained to me by Detective

Holland, there's a thing called commercial bribery, which appears to apply.

Q Okay. And were any charges brought against Mark Rasmusson for mail fraud in relationship to Next Flight?

A Not as of this date.

Q Okay. Are there any pending charges?

A I'm not at liberty to discuss ongoing investigations.

Q Are you saying there's an ongoing investigation?

MR. ROBINSON: I object.

THE WITNESS: No, ma'am. That's not what I said.

MR. ROBINSON: I object. He's asked and answered the question.

Q (By Ms. Sheppard) Okay. Did you review all the documents that the FBI subpoenaed from Ford Motor Company?

A No.

Q Did anyone on the task foce review the documents that were subpoenaed from FB -- subpoenaed by the FBI from Ford Motor Company?

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A Yes.

MR. ROBINSON: I'li object -- to the extent you know.

THE WITNESS: Yes, that I know of, they were reviewed.

Q (By Ms. Sheppard) Okay. Were

document -- did you instruct anyone on the task force to send those records to any law enforcement agency or even the Customs Service to have a document analysis performed on the documents received from Ford Motor Company?

A Are you talking about the documents subpoenaed by the FBI?

Q Yes.

A It's not within my authority to tell the FBI to do anything, ma'am.

Q Okay. Now, did you request copies of the documents that were subpoenaed from Ford Motor Company?

A No, ma'am.

Q Why not?

A Because they were seized under an administrative subpoena. And I preferred not to go that route.

Q Wasn't the FBI a member of the task

force.

A Yes, they were.

Q Wasn't your goal to find out whether Rasmark was participating in money laundering activities?

A As a very minor part of the point of the task -- of the task force?

Q Wouldn't it be relevant to review those documents to see if they contain any evidence of criminal activity?

A Yes, ma'am.

Q Okay. And you didn't think it was important for you to review those documents?

A That's not what I said. I stated they were seized under an administrative subpoena. And I don't -- I don't care to use administrative subpoenaes in financial cases.

Q All right. You contacted Mark B. Rasmusson's ex-wife in June of 1992, Lorie Nelson. What was the purpose of contacting Lorie Nelson?

A To gain information.

Q And what information did Ms. Nelson provide to you?

A I don't recall specifically. The

most -- the thing that stands out in my mind that she stated is that the inheritance, which is repeatedly referred to, was gone long before Mr. Rasmusson arrived in El Paso.

Q Okay. And what information did you provide to Ms. Nelson?

A That I was conducting an investigation.

Q Okay. Did you tell Ms. Nelson that Deborah Rasmusson was high on drugs in your office?

A I don't recall if that's the way it was stated that I had seen her under the influence of controlled substances.

Q Okay. And did you tell -- okay. Ms. Nelson had her attorney, William Cole, to contact you. Did he call you or did you call Mr. Cole?

A I don't recall who called who.

Q But you do recall having a conversation with Mr. Cole?

A Yes, I do.

Q All right. What information did you give Mr. Cole?

A I don't recall the specifics

without looking at the notes.

Q All right. Did you tell Mr. Cole that charges have been dismissed during Mark Rasmusson's criminal trial because the witness failed to appear?

A No, ma'am, I did not.

Q All right. Did you tell Mr. Cole that Mrs. Rasmusson was carrying a weapon because she felt her husband, Mark Rasmusson, and his friends were trying to kill her?

A I may have.

Q Did you volunteer to go to Douglas County to testify regarding this information if you were served a subpoena?

A I was asked if I would testify regarding what I knew about the child welfare situation in that residence if I were

subpoenaed.

Q Okay. So were you ever subpoenaed?

A It seems to me there was a subpoena or a request for an appearance of some type which the Customs Service declined due to the -- due to what was going on here at that time.

Q Okay. And what was going on here

at that time?

A The investigation and the state we were at with this investigation. We'd have had to reveal too much of our investigation.

Q Okay. Now, you stated that Ford -- that -- in your affidavit you stated that Mark B. Rasmusson and Andrew Gantkessy were engaged in double billing. And what

evidence did you undercover to corroborate that they were engaging in double billing?

A I would have to go back to the report, but as I recall, there is allegations by several former employees who had access to that kind of information.

Q Okay. And how did you corroborate that information?

A It's allegations by multiple employees as well as investigation relationship of Mr. Gantkessy would lead one to give that quite a bit of credence.

Q Okay. Did you obtain this information from Gail Beach?

A I don't recall if -- if she alleged double billing.

Q Okay. Gail Beach alleged that Andy

Gantkessy was participating in a kickback scheme?

A I believe the statement she used was he was receiving payments from Rasmark.

Q Okay. Did she --

A I don't believe she used the term kickback -- I don't -- that I recall.

Q Okay. Did she also tell you that Joe Sudomir was participating in a kickback scheme or receiving payments?

A As I recall, she did make that statement.

Q Okay. And did you indicate that information in your report?

A In the interview report?

Q Yes.

A Yes.

Q Okay.

A If she made the statement, it's in the report.

Q Okay. Now, in your letter to Ford Motor Company on July 26th that you have in front of you, why didn't you state that information in regard to Joe Sudomir in your letter?

aircraft that's referred to and the manner that it was purchased, etcetera.

Q Okay. And back to my original question. After you seized all the documents from Rasmark in November -- November 22nd, 1993, did you have a document analysis performed on all of those records to determine which records constituted evidence of drug

smuggling or money laundering?

A To the best of our ability, we conducted an analysis of those documents.

Now, what was the rest of that question?

Q Okay. Did -- what -- did the document analysis show evidence of drug smuggling?

A Per se, no.

Q Did the document analysis show evidence of money laundering?

A Not specifically.

Q Did the document analysis show evidence of mail fraud?

A I can't answer that question. I don't have a direct answer to that question.

Q Okay. Did the document analysis

show evidence of tax evasion?

A The document -- that specific document analysis, I don't recall what they came up with so far as financial flow on that particular issue.

Q You didn't have a report made to you in regard --

A Yes, ma'am. I said I --

Q -- to the document analysis?

A Yes, ma'am. I said I don't recall exactly what they said on that issue.

Q Were any charges brought against Mark Rasmusson as a result of the document analysis?

A As a result of the document analysis? No, ma'am.

Q On November 10, 1992, you appeared

at the Port of Entry when Deborah Rasmusson was stopped in her Mercedes. Was your appearance as a result of your request that they notify you at any time that Rasmark vehicles crossed the border?

A No, ma'am.

Q How did it happen that the Customs Service notified you and you appeared?

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A Which interview are you referring to first?

Q The interview at Ford Motor Company --

A No, ma'am.

Q At his office?

A No, ma'am.

Q Okay. And how many agents were in

that interview?

A My recollection is it was three Customs agents, a city police detective and an FBI agent.

Q Can you explain why it took so many agents to conduct an interview?

A It's what I would refer to as a very odd set of circumstances.

Q Okay.

A What occurred is we were going to talk to Mr. Gantkessy. There had been some surveillance to see how frequently he made stops at the Rasmusson residence.

Special Agent Acosta and I went there to do the interview. And when we started to go into the building, we just -- all of a sudden, everybody else was there,

too. And that's the way that that occurred.

Q Okay. And at any time, did Mr. Gantkessy ask to call his attorney?

A No, ma'am.

Q All right. And did anytime during the interview, did Mr. Gantkessy appear to be ill?

A What do you mean by ill?

Q Well, did he tell you he needed to leave and that he was feeling sick and he needed to leave?

A No, ma'am.

Q All right. What -- did each member of the law enforcement agencies in that meeting, did they ask questions of Mr. Gantkessy?

A I don't believe so.

Q Okay. What was the purpose of having Mr. Gantkessy come to the Customs office the next day?

A Mr. Gantkessy volunteered to come to the Customs office and give a more complete statement to Special Agent Schroeder and Acosta.

Q Okay. So what -- what -- when did

Rasmark by the financial task force, the OLCEDEF investigation, did you develop any factual evidence that Mark Rasmusson was transporting drugs?

A No, ma'am.

Q Did you develop any factual information to confirm that Mark Rasmusson was money laundering?

A You need to be specific when you say "factual information". Are you talking about probable cause to bring an indictment or any information at all?

Q Well, let's take the first one. Did you develop any evidence sufficient for probable cause?

A No, ma'am. I don't believe so.

Q Okay. What evidence did you have to conduct the Rasmusson residence with any criminal activity?

A Allegations by informants, things out of the trash. That would be the biggest thing.

Q Okay. And all this information that you received out of the trash, the documents that you got out of the trash, that

the record at approximately 12:03 p.m.

(Short Recess.)

THE VIDEOGRAPHER: This is tape two in the continuation of deposition of Lawrence Frost. We're back on the record at approximately 12:05 p.m.

Q (By Ms. Sheppard) Okay. Mr. Frost in your affidavit, November 1993, you stated that -- in paragraph 44 as numbered by the plaintiffs -- you stated that -- let me let you find that.

A Go ahead. I'm almost there.

Q You stated the contents of the box

upon analysis indicated the Rasmussons are engaged in tax evasion. Now, what was the tax violation or method of tax evasion?

A I'm going to have to explain to you, the way that that paragraph reads is poor sen-text on my part, poor writing on my part.

The analysis of the box did not stand alone. However, through the course of

investigation, the type of tax evasion we found is just underreporting of income. In other words, cash proceeds stuck in a pocket and not reported.

Q Okay. Was Mark Rasmusson or Deborah Rasmusson or Rasmark ever charged with tax evasion as a result of the records contained in that box?

A As a result of the records contained in the box nor for any other reason, not that I'm aware of.

Q Okay. And did you refer these records to the IRS for their evaluation?

A Yes. The IRS was present.

Q Okay. Who was present for the IRS?

A When the box was inventoried, Fonda Hivick. And during the course of the investigation there was -- I apologize. I can't remember the young lady's name. She left the agency. And then there was Alice Evecka also participated in the investigation.

Q Did Fonda Hivick participate in the analysis of the records?

A I don't recall who did the

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

MARK B. RASMUSSON,	*	
ET AL	*	
	*	
VS.	*	CIVIL ACTION:
	*	EP-95-CA-475-F
LAWRENCE E. FROST,	*	
ET AL	*	

VIDEOTAPED DEPOSITION

THOMAS LENOX

January 10, 1997

investigative policies and procedures -- investigative procedures.

MS. SHEPPARD: Okay. Are you instructing the witness not to answer the question?

MR. ROBINSON: I'm saying to the extent you're asking for those things that he can't testify to, I'm instructing him not to answer it. If there's portions of that that he can answer, he may answer.

Q (By Ms. Sheppard) Okay. Can you testify to whether you did a database search called an EPIC search where you search all the other law enforcement databases pertaining to

Mark B. Rasmusson?

A Are you asking if I can comment if I did that?

Q Yes, did you do that?

A I'm not going to comment on that.

Q Okay. Are you --

MR. ROBINSON: For clarification of the record, what

do you -- the acronym EPIC. Is that the question?

Q (By Ms. Sheppard) Well, let me ask this question: Did you check the database of the NADS (phonetic)?

A I'm not sure I can answer that.

Q Okay. Do you check the database of TECS?

A I'm not sure I can answer that one either.

Q Did you check the database for El Paso Intelligent Center?

A I'm not sure I can answer that.

Q Did you check the database for NCIC?

A I'm not sure I could answer that.

Q Did you do any type of background check on Mark B. Rasmusson for initiating your investigation?

MR. ROBINSON: Which investigation?

Q (By Ms. Sheppard) The DEA investigation.

A The OLCEDEF investigation?

Q Yes.

A No, I did not.

Q Okay. Who made the decision to include Mark B. Rasmusson as one of the defendants in the indictment, in the super -- superceding indictment?

A The indictment was drawn up by the United States Attorneys Office. It was their decision who would and would not be indicted.

Q Okay. Did you submit information to U.S. Attorney's Office indicating that you wanted Mark B. Rasmusson to be included in the -- in the indictment?

A I don't -- I don't recall based on the time frame what discussions took place on who was indicted.

Q Okay. Do you recall what information you gave to the U.S. Attorney's

Office regarding -- pertaining to Mark B. Rasmusson?

A They had all the information that we obtained during the course of our investigation into Jesse Flores.

Q Okay. Did you give the U. S. Attorney's Office any evidence that showed that Mark B. Rasmusson was transporting drugs

on his aircraft?

A No, we did not.

Q Did you give any information to the U. S. Attorney's office indicating that Mark B. Rasmusson was transporting large amounts of currency on his aircraft?

MR. ROBINSON: I'll object to the form of the question as far as large amount of currency. If

you want to define what you mean by "large amount".

Q (By Ms. Sheppard) Did you give the U. S. Attorney's office any facts or information that Mark B. Rasmusson was transporting currency illegally on his aircraft?

A I don't recall.

Q Okay. Did you uncover -- during your investigation of Mark Rasmusson, did you uncover any facts that Mark Rasmusson had received over $500,000 in money laundering proceeds -- drug proceeds from the Flores organization?

A What was the dollar amount?

Q 500,000 -- $500,000.

A I don't believe so.

Q Okay. Did you uncover any facts and submit -- well, did you uncover any facts that indicated that Mark Rasmusson was utilizing the purchase of aircraft parts as part of Flores money laundering operation?

A Would you repeat that?

Q Did you uncover any information or evidence to indicate that Mark B. Rasmusson was using Rasmark Jet Charter, Inc. for purpose of purchasing air -- aircraft parts as part of Flores money laundering operation?

A I don't recall that, no.

Q Okay. During your OLCEDEF investigation, did the FBI ever tell you that they had an informant that was closely tied to Flores organization?

A The FBI didn't tell us anything. We don't get along very well, the DEA and the FBI, so, no.

(Mr. Steve Hatch joins the proceedings at this time.)

Q (By Ms. Sheppard) During your

A I don't remember.

Q Okay. When did the DEA OLCEDEF case close against Mark B. Rasmusson?

A Well, the OLCEDEF case is still an open case. When he was acquitted at trial, then he was no longer involved in the investigation or part of the investigation.

Q Okay. Are you saying that the OLCEDEF case continued against Mr. Rasmusson beyond his acquittal of June 14, 1991?

MR. ROBINSON: I'll object

to the form of the question.

You're asking for --

Q (By Ms. Sheppard) Did --

MS. SHEPPARD: I'm sorry.

Go ahead. Are you finish.

MR. ROBINSON: To the extent it may or may not be a pending investigation, he can't -- neither confirm or deny that.

Q (By Ms. Sheppard) Okay. Are you saying that the OLCEDEF case continued beyond the time that Mark B. Rasmusson was acquitted on June 14th, 1991?

A I don't think I can comment on the

status of any investigation, if -- whether it's ongoing or whether it's been closed.

Q Oh, you cannot say whether you closed the case against Mark B. Rasmusson?

A No. No, I won't say that.

Q Okay. So, arguably, one could assume it's still an open case? It could be?

A You can assume whatever you'd like ma'am.

Q Okay.

A I can't -- I can't comment on the status of investigations.

Q All right. Do you still have an open OLCEDEF case on Jesus Flores?

A I can't comment on that.

Q All right. Now, what facts did the DEA develop between June 17th, 1991 and March 1992 pertaining to Mark B. Rasmusson that indicates he was engaging in money laundering activities?

A Could you give the dates again.

Q Between June 1991 -- June 14th, 1991 and March of 1992.

A During that time, I was not assigned to the El Paso area. So I can't

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comment on that.

Q Okay. Were you ever contacted during that time by any DEA agent or U. S. Custom Agent or any member of the financial task force?

A I was contacted by a lot of agents in Custom -- regarding what? That's just an --

Q Regarding the -- regarding Mark B. Rasmusson, the investigation against Mark B. Rasmusson and the other plaintiffs.

A I don't believe so, no.

Q Okay. In your declaration that you submitted in this case, you stated that Mark Rasmusson was -- was never a major player in the Flores investigation. Did you reveal this information to U. S. Custom Service?

A I don't think they ever asked me. I'm not sure. I can't really answer that, the way that's asked.

Q Okay. Do you have any -- or did any of the members of the financial task force or U. S. Customs Service contact you regarding the present financial task force investigation against Mark B. Rasmusson and the other

plaintiffs?

A Not that I recall.

Q Okay. Were you aware of the

forming of the financial task force in March of 1992 for the purpose of investigating Mark B. Rasmusson?

A No, I was not.

Q All right. How long did the investigation, the original OLCEDEF, V.A. OLCEDEF case investigation against Mark B. Rasmusson -- what period of time did that investigation take place?

A Well, since I couldn't comment on if there is any ongoing investigations or what the status of them are, I'm not sure I could clearly answer that question.

Q Okay. So are you saying that you can't comment on the extent of your investigation against Mark B. Rasmusson during the DEA OLCEDEF case?

MR. ROBINSON: I think what he's saying is that he can't, you

know, confirm or deny whether the investigation is still ongoing.

If you want to ask specific

questions about the DEA investigation that led up to your client's indictment and subsequent trial, those are appropriate questions.

Q (By Ms. Sheppard) Let me ask you this question: Did you have any information in your DEA case file that connect Mark B. Rasmusson to the Jesus Flores organization back in 1989 when -- when you officially made -- or at least when you first got involved with DPS in investigating Jesus Flores?

A Without going back and reviewing

the entire case file, I can't -- I don't know. I can't comment on that if there -- if there is or there isn't.

Q Okay. Did you develop -- did the DEA or any members of the DEA OLCEDEF task force develop any evidence that Mark B. Rasmusson was engaging in transporting drugs or any illegal contraband for the Jesus Flores organization?

A No, we did not.

Q Okay. What other agencies participated in the DEA OLCEDEF task force?

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planes that were seized were Rasmark aircrafts?

A No, they were not.

Q Okay. Did DEA find any -- uncover

any evidence connecting or showing that any of the Rasmark aircrafts transported cocaine for -- for Flores organization?

A Not that I'm familiar with.

Q Were you ever contacted by U. S. Customs and Special Agent Larry Frost?

A I don't recall ever being contacted by him, no.

Q Okay. Were you contacted by U. S. Customs Agent Fred Schroeder?

A I worked with Fred over the four years I was assigned to El Paso. I spoke to him regularly.

Q Okay. Did you speak to him in regard to the Mark B. Rasmusson investigation that U. S. Customs Service were -- were leading?

A I recall a conversation. I don't remember when. The only thing I recall was he

had informed me that Deborah had brought in --

Deborah Rasmusson had brought in a box that

IN THE UNITED STATES DISTRICT COURT

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EL PASO DIVISION

MARK B. RASMUSSON,	*	
ET AL	*	
	*	
VS.	*	CIVIL ACTION:
	*	EP-95-CA-475-F
LAWRENCE E. FROST,	*	
ET AL	*	

VIDEOTAPED DEPOSITION OF

OFFICER GEORGE L. SALAS

January 10, 1997

Q Okay. And do you have to file that at the time that you obtain the job or before you obtain the job?

A I filed it when they requested it so that I would be free to work any -- any extra jobs during the year that it's valid for.

Q Okay. You're saying you file it at the time that the Rasmussons requested that you do the work or is that what you're saying?

A No.

Q Okay. What are you saying?

A I'm saying that when the department requested that we submit one of those forms from the Civil -- to the Civil Service requesting permission to work outside employment, that is the time when I submitted

it.

Q Okay. So at the time that the department asks all the officers to submit their form? Is -- is that what you're saying?

A Most officers won't submit one unless they feel they're going to work one. So it could be at any time from the time they begin asking for those sheets. I believe I

was going to work some football games that season, so I had submitted one early. And it should indicate on there about the time that I did so.

According to this, I submitted it October of '91. And after I had been hired by Rasmark, after a number of times having gone there, I felt it was going to be a more

semi-permanent position, I made a memo which I submitted to my supervisor to the department indicating that I expected to be working on a semi-permanent basis.

Q Okay. Now, we had a request for discovery of material. Was that document included in the response to the discovery request?

MR. BAKER: This -- this document here is what has previously been given to you. This is between George Salas and his sergeant. You want to mark this as Exhibit Number 1 to his deposition and the one March --

MS. SHEPPARD: Yes.

MR. BAKER: -- March of '92

as Exhibit 2 to his deposition?

MS. SHEPPARD: Yes. Let's do that. Defendant's 1 and Defendant's 2. And you also had another form, another --

MR. BAKER: This is -- this is the initial report on the initial contact.

MS. SHEPPARD: Okay. Let's mark this as Exhibit 1 and this is 2 and this is 3.

MR. BAKER: That's the second page of the number one report.

MS. SHEPPARD: Okay.

MR. BAKER: That's the second page of Exhibit right

there.

(Whereupon, Deposition Exhibit Nos. D-1, D-2 and D-3 were marked for identification.)

Q (By Ms. Sheppard) Okay. Now, in regard to the outside employment, do you

submit your request annually or how often do you have to submit it?

A Annually.

Q Annually?

And once it's submitted, is it good for just one year or is it -- or is it good for forever?

A It's not good until it's approved

by the Civil Service Commission. And on the date of approval, it's good for one year from that date.

Q Okay. Now, when was your request approved by the Civil Service Commission?

A It's on the -- on the paper there.

Q Oh, okay.

How many times were you paid by Deborah and/or Mark Rasmusson?

A I don't know a specific number. Possibly six times, I would guess. Eight.

Q Okay. Now, did you report this income on your tax return, your Federal income tax return?

A Yes, I did.

Q Okay. And do you maintain any other records of the receipt of this money?

A No.

Q All right. Did you report it on your 1992 income tax return?

A Yes.

Q All right. And when did you first become aware of -- well, let me ask you this question first.

How many occasions did you go over to Deborah Rasmusson's home?

A Possibly six or eight times.

Q Okay. And those are six or eight times that you were paid?

A Yes.

Q Okay. Now, did you go to her home on other occasions that you were not paid?

A Yes. I went one time.

Q Okay. Only one time?

A Yes.
Q All right. Now, did you ever have sex with Deborah Rasmusson on any of these occasions that you went to her home?
MR. BAKER: Wait just a minute, now. I'm going to instruct him not to answer that question. That doesn't have

anything to do with the issue of qualified immunity.
Q (By Ms. Sheppard) On any of the occasions that you went to Deborah Rasmusson's home, did she ever give you her keys for -- for you to use her vehicle, her Mercedes?
A No.
Q Okay. And on any of the occasions

you went to Deborah Rasmusson's home, did you ever ride in her Mercedes with -- with her son, Ian Maye?

A No.

Q Okay. On any occasions during the period of time that you knew Deborah Rasmusson, did Deborah Rasmusson ride in your police vehicle?

A No.

Q Okay. On any occasions that -- during the period of time you knew Deborah Rasmusson, did you and Deborah Rasmusson ever go to O'Henry's?

A Yes.

Q Okay. Can you tell me about that occasion?

A That was a shift choir practice we

were having that day. It was at O'Henry's. And I was there with my friends, other officers. We had just gotten out of training. And I called her up and invited her to come down if she wanted to.

Q Okay. Now, why would you call up Deborah Rasmusson and ask her to attend that function with you?

A I considered her a friend at that time.

Q Okay. And what was the basis of the friendship?

A I knew her.

Q You knew her how?

A As a friend.

Q Okay. What kind of activities did you two do as friends?

A Nothing.

Q Well, how do you -- well, do you recall any of the occasions that you and Deborah Rasmusson as friends were in her vehicle?

A Yes.

Q Okay. And do you recall any of those occasions with -- where you and Deborah

Rasmusson as friends was in your police vehicle?

A No.

Q Okay. Do you recall any occasions where you took Deborah Rasmusson riding in your police vehicle?

A No.

Q All right. Do you recall any

occasions where Deborah's friend Blanca Alavar -- Alavar were with you and Deborah Rasmusson and, perhaps, one of your partners?

A Yes.

Q Okay. Can you tell me about that occasion?

A That was the night of -- we went to O'Henry's. After that, she wanted to go riding. And she invited me and my friend to come along with her and the other girl. And we went for a drive.

Q Okay. Now, what time did this occasion take place?

A I don't know what time. It was in the evening.

Q In the evening.

Okay. And were you on duty at that

time?

A No.

Q Were you in uniform at that time?

A No.

Q Were any of the other officers at this event in uniform?

A No.

Q Okay. Who was the friend with you, the police officer friend, with you on this occasion?

A We called him Bart. His last name is Alvarez.

Q Can you spell that, please?

A A-l-v-a-r-e-z. I don't remember his first name.

Q Okay. Now, who were your partners -- how many partners did you have during 1992?

A I couldn't say.

Q Okay. Well, around this time period when you were associating with Deborah Rasmusson, who was your partner?

A I don't remember if I had more than one or two.

Q Well, name the one or two that you might have had.

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A One of them was Richard Castellano.

Q Okay. Can you spell that Castellano?

A C-a-s-t-a -- no -- t-e-l-l-a-n-o.

Q Okay. And who's the other person?

A I don't remember. I just think there might have been somebody else that was a partner of mine.

Q So, are you saying that you only had one partner during this period of time?

A Yes. I may have had another, but I can't remember who it was or -- I don't remember specifically who I worked with during those days. I was a relief, and I would work with different people. And I would work with junior officers if their senior partners weren't there.

Q Okay. When did you first become aware of Larry Frost?

A I received a phone call at The Valley station -- well, I had a message left at The Valley station from Agent Frost. And the date -- I'd have to look up the date.

Q Okay.

A Okay. It was March 2nd, 1992.

Q Okay. Larry Frost -- did Larry Frost call you?

A He called and left a message and I returned the call.

Q Okay. And when you called him back, what did he say to you?

A Well, I -- I told him that I was -- who I was. And I told him -- he asked me why I wanted to know about the Rasmussons. And I told him who I was and how I got to work with them and that I had simply wanted to make sure that I wasn't getting into anything I wasn't aware of. I had a friend of mine, who is an FBI agent, just check into the names to see if there was anything there because I didn't want to end up in a bad situation.

Q Okay. Now, who is the this friend

with the FBI?

A Name is Agent Camarillo. Hector Camarillo.

Q Can you spell that name?

A C-a-m-a-r-i-l-l-o.

Q Okay. And he worked for the El Paso Police Department what -- during what period of time?

A Before -- I don't know. Worked probably five, six years prior to going to the FBI. I don't remember what dates he left and what dates he started with the FBI.

Q Okay. Why did you call him?

A He was a good friend of Rick Castellano's and he was a friend of mine, an acquaintance of mine. And during one time, we

-- we ran across him. And we were just talking. And I told him I started working with the Rasmussons. And the name didn't ring a bell with him. And asked him if he wouldn't mind just checking for me if he had a chance.

Q Well, was there any reason why you couldn't check the El Paso Police Department records --

A I did.

Q -- data base to see what information were in the records?

A I did.

Q You did?

What information did you find in the records?

A Basically, there was a report that I had made and another incident where Deborah

What did he tell you about the Rasmussons or Rasmark?

A He told me basically that there is an investigation going on and I'd be contacted by a Customs agent. But he didn't tell me anything else, other than that.

Q Okay. Now, after he told you that there was an ongoing investigation, why did you continue to work for Deborah Rasmusson and Mark Rasmusson?

A An investigation by itself doesn't indicate there was anything going on. I didn't know any details about it at that time. And I don't believe that during that period of time from the time I told them until the time I next heard from Larry that there was anything to suspect.

Q Okay. When you talked to Larry Frost, what information did he tell you about the Rasmussons?

A Basically, he told me that they were working an investigation on Rasmark and that -- I told him, well, I didn't want to step on any investigation or didn't want to get myself in any trouble.

would contact him if you saw something?

A No, because I hadn't seen anything to make me think that they were involved in anything criminal.

Q Okay. And during the period of time that you worked for Deborah Rasmusson and Mark Rasmusson, did you see anything that led you to believe they were involved in criminal

activity?

A No.

Q Okay. On the occasions that you went to Deborah Rasmusson's home, did you go inside the home?

A Yes.

Q Okay. Were you there for any period of time greater than five minutes or ten minutes?

A Yes.

Q 15 minutes?

A Yes.

Q What about an hour?

A Yes.

Q Two hours?

A Yes.

Q Were you there greater -- any times

just a minute. Sergeant Metcalf.

MS. SHEPPARD: Okay. I'd like to state for the record that Counsel is conferring with the client and testifying on behalf of the client.

MR. BAKER: I'm not testifying one word. I'm reminding him of the bomb incident.

Q (By Ms. Sheppard) Let's go to the bomb incident.

Do you recall the occasion of the bomb incident?

A Yes, I do.

Q Okay. How -- did Deborah Rasmusson call you on that occasion?

A Yes, she did.

Q Okay. What did she tell you?

A She told me she thought she had a bomb in the house.

Q Okay. And did you go to her on that occasion?

A Yes.

Q And did she show you the object

that she thought was a bomb?

A Yes.

Q Okay. And did you call the El Paso Police Department bomb squad?

A I called the police department. And they sent out somebody. I believe it was a unit and possibly a supervisor. And they requested the bomb squad out there.

Q Okay. And did they take the object with them?

A I believe they did.

Q All right. And did you file a report regarding the -- the bomb incident?

A No, I didn't.

Q Okay. Did anyone at El Paso Police Department file a report?

A Not that I'm aware of.

Q Okay. And what was the results of the bomb squad assessment of the bomb?

A I didn't hear about that for a while until they told me that it was a fake bomb, that it wasn't a bomb. I really don't recall anything specifically about it. But I know that there was no bomb there.

Q Okay. Now, did you -- can you just

give a description of what this fake bomb looked like?

A No ma'am. Just a -- some wiring and that's about it that I saw.

Q Okay.

THE COURT REPORTER: I need to change paper.

MS. SHEPPARD: Okay. We're back on the record.

Q (By Ms. Sheppard) I believe you last stated you did not -- you did not recall what the bomb -- the fake bomb looked like?

A That's right.

Q Okay. Was there a picture on it? Do you recall whether there was a picture attached to this fake bomb?

A No. I don't remember anything

about it -- a picture.

Q Okay. All right. Have you ever borrowed any of the Rasmusson vehicles?

A Pardon me?

Q Have you ever borrowed any of the Rasmusson vehicles?

A No.

Q Okay. Have you ever entered the

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And I told her, well, let me call them. And, so, I called Larry Frost and told him that she'd cooperate and she wanted their help. So he told me to go out and pick her up. I told him I didn't want to get involved and he said, "Well, you need to go."

So I agreed and he told me to meet him at the Circle K. And I don't remember if

I was to call him when I got to the Circle K or that they'd be there. I don't remember the details.

I left there, went to get my gun and then I went to meet Deborah. When I got to the business, she had the gun there. And I looked around, made sure nobody was around, no suspicious cars. And I went inside. I didn't know what was going on at this point. So I told her I was there to take her to these guys. And she told me she had some papers. And I think that she told me at that time that she felt somebody had broken into the business that day.

And I said, well, there is nothing that I could do about it at that point. My concern was her safety. So I told her, "Let's

go." And she had her son with her.

And she indicated to a box that she had there with a lot of stuff that would put Mark away.

And I said, "Well, that's your stuff", I told her. And so we started to leave. And I don't know who brought the box out. It had to be either her or her son, Ian. It wasn't me because I wouldn't want to be caught in a situation where someone might be trying to kill her and I've got a box in one hand and a gun in another. So somebody else carried it out and took it to my car.

And I think that -- I'm just guessing -- and I don't know if you want me to guess -- that Ian brought it with him and put it in the back seat with him. And Deborah

went in -- sat in the front seat of the car. And I took the pistol from her and held on to it.

Q Okay. Now, did you, before leaving Rasmark's office, look in that box of records to see what kind -- what was in that box?

A No.

Q Okay. Did you tell Deborah

Rasmusson to lower her head in the front seat so she couldn't be seen?

A Yes.

Q Did you tell her son, Ian, to lower his head in the back seat so he couldn't be seen?

A Yes.

Q All right. Do you -- before

leaving the Rasmark office, did you tell Deborah Rasmusson to grab her gun, that she might need it?

A I don't remember. I might have, but I just don't remember that.

Q Okay. Now, why is it that you called Larry Frost first instead of the El Paso Police Department?

A Because Larry -- Larry Frost was a Federal agent and I knew they had a witness protection program. And the police department doesn't have one of those. So I didn't think there was anything we could do to help her.

Q Okay. So do you later make any type of report to the El Paso Police Department?

A No, ma'am.

Q Okay. Now, what was your understanding of what Larry Frost could do for Deborah Rasmusson?

A Well, just my basic knowledge of the Federal government is that they can protect somebody if they feel they have a reason to.

Q So is it your testimony that if someone calls El Paso -- El Paso Police Department regarding someone threatening them, the El Paso Police Department cannot take any action to protect that person?

A Well, there's not very much we can do. You're asking a very broad question. I have to know all the facts and all the variables.

Q Okay. Well, did you call your

supervisor to find out if there was a situation where the El Paso Police Department could assist?

A No, ma'am.

Q Okay. How many agents met you and Deborah and her son at Circle K?

A I don't know. Possibly three or four. I just don't remember the number.

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Q Okay. Who was sitting in the interview room with you?

A First, Deborah and then I was there by myself and the agent was there when we were both there and that was it. After he left, after a while, they went ahead and asked me I could come out and sit outside.

Q Okay. Now, the interview room

you're speaking of, is that the same interview room where Deborah Rasmusson was sitting?

A No. They took her somewhere else.

Q Okay. Was Deborah Rasmusson's son, Ian, in the same room with you?

A I don't believe so. I think he was taken to another room. A conference room, I think.

Q Okay. Did you see Deborah Rasmusson drink any alcoholic beverages?

A I saw her with a bottle of beer, but I don't remember her drinking it. She may have been. I just don't remember it.

Q All right. Now, did you tell Larry Frost or any other Customs agents that Deborah Rasmusson had evidence in that box that she brought with her?

A No, I told her she had a box there to give. But I didn't -- I never pointed it out to them or anything. They -- that was -- when they got there -- I think the box had been taken in already, so I never had anything to do with it.

Q Okay. So you didn't tell any of the Customs agents that that box contained evidence?

A No. She had told them that.

Q Okay. Now, what time was it when this interview concluded with Deborah Rasmusson?

A I don't know. I'd be guessing. 7:30, 8:00 o'clock, I would guess.

Q Okay. Now, where do you go when

that interview ended?

A I went home.

Q All right. Now, as you were leaving out of the Customs office, did Deborah Rasmusson say -- pull the fire alarm?

A Yes.

Q Okay. And did you see a fire department truck come out?

A No.

Q Okay.

A I left during that time.

Q Okay. Now, what contact have you had with Deborah Rasmusson since May 23rd, 1992?

A We met once beside the K-Mart off of George Deater and she told me that Mark

told her that she didn't want her to see me any more. And I believe at that time I gave her back the keys to the house and I told her, fine. And I don't remember if we met one more time after that. The next time I ran into her was about -- lately, the last time here was at the lower level of the police headquarters building at ID&R. I ran into her there. I can't remember when that was now. But we just said hello. And I told her, "Here is my card. If you need something, let me know." And that was it.

Q Okay.

A She -- she did call me after that --

Q Okay.

A -- after I saw her there telling me that she had a drug problem. And I told her

that -- I told her she should go to Charter Hospital or something like that. But she wanted me to help her and I told her I couldn't. And she said, "Well, don't you work with drugs and stuff?"

I said, "Yes, I work with children in drug programs. But I don't have any access to anything else." So I told her I couldn't help her. And that's the last of it.

Q Okay. Now, why would she come to you about her personal problems?

A I don't know.

Q Okay. Now, you said that you and Deborah Rasmusson were friends. Did she often tell you about her personal problems?

A No.

Q Did she ever discuss any of her

personal feelings with you?

A We were acquaintances or friends. No.

Q Okay. And so you're saying that the first occasion that she ever mentioned anything about her husband to you was on that occasion of May 23rd, 1992?

A Did she ever mention anything about

her husband?

Q Yes.

A No. When we first -- she'd always talk about him. And she told me she felt she -- he was seeing somebody else and he had somebody living up in Colorado.

Q Okay. And on -- did she call you about any occasions or someone peeking in her

windows at home?

A I -- I don't remember that specifically. No. I got to say I don't remember.

Q Okay. Were you there when -- well, you saw Deborah Rasmusson with the beer. Did you see Agent Frost offer her that beer?

A No.

Q Okay. But you did see her with the beer in her hand?

A Yes.

Q Okay. Now, on this occasion, May 23rd, 1992, did you think that Deborah Rasmusson was high on drugs on that particular occasion?

A No, I couldn't tell. She was scared.

Q Okay.

A I wasn't looking for that.

Q Okay. Were you aware that Deborah Rasmusson used drugs at that time?

A I don't remember. I don't believe I did, no. I found out that day that she was using it.

Q What did you find out that day?

A From Agent Frost.

Q What did Agent Frost tell you?

A That she had a cocaine habit.

Q Okay. And what else did Agent Frost tell you?

A That they had been investigating a money laundering case.

Q Okay. Anything else?

A Nothing that comes to mind, no.

Q Okay. And -- okay. Now, when you called Agent Frost, did he tell you anything in regard to the Customs service going to get a consent to search form -- consent to search form signed by Deborah Rasmusson?

A No.

Q Okay. Did he tell you anything about the purpose of this meeting with Deborah

Rasmusson?

A No.

Q Okay. And were you -- did you overhear any of the conversation between Frost or any other Customs agents with Deborah Rasmusson?

A No. The only thing I heard towards the end of the evening is she was yelling at them stuff and just -- they were arguing. But

I don't remember the substance of that.

Q Okay. Did you and Deborah Rasmusson ever have a conversation about that meeting after May 23rd, 1992?

A No. I don't believe so. Wait. I think the time that we met, she told me that they had beat Ian. That's what she had told me.

Q Okay. And she said who had beat Ian?

A The Customs people.

Q On the occasion of May 23rd, 1992?

A Yes.

Q Okay. Did she tell you anything else in regard to that occasion?

A No. Just that she was mad at them

and because -- they had gotten into a fight with Ian, but I don't know what the fight was about.

Q Okay. Did she say anything to you about agents taking the box of records from her?

A She told me they kept the box.

Q Okay. Did she say anything to you about she thought you set her up?

A Yes, she did.

Q Okay. And what did she say to you about that?

A She said that she thought that I had set her up all along. And I told her that was ridiculous.

Q Okay. And how -- during your employment with Deborah Rasmusson or any other

time on any other occasions you went by her home, did you ever see any contraband or illegal drugs or large sums of money in the home?

A No, ma'am.

Q Okay. Now, how many times have you personally talked or meet with Agent Frost?

MR. BAKER: Wait a minute.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MARK B. RASMUSSON, et al., Plaintiffs,	*	
VS.	*	CIVIL ACTION: EP-95-CA-475-F JURY DEMAND
LAWRENCE E. FROST, et al., Defendants	*	

DEPOSITION OF FONDA HIVICK

January 17, 1997

are asked the same questions you are today and you give different answers, you can be expected to be asked to explain the reason for your differences in your answers.

Do you understand this?

A Yes.

Q You understand that although we're sitting here in the conference room at the Hampton Inn, you are testifying under oath under penalty of perjury and that testimony that you will give today has the same force and effect as though it was given in court. You realize that perjury is a felony punishable by a prison sentence?

A Yes.

Q It is important that you understand my questions. If you do not understand any question, please tell me; and I will rephrase it. If you fail to tell me that you do not understand a question, everyone will

assume and the record will reflect that you understood the question. Is this clear?

A Yes.

Q You are required to give your best recollection and response to my questions. If, for example, you do not remember the exact words of a conversation, you are required to give your best recollection of the substance of it. However, I do not want you to guess or to speculate. Do you understand

this?

A Yes.

Q The reporter is unable to record two people speaking at the same time. So, please, let me finish a question before starting to answer. I shall extend the same courtesy to you. That is, I shall wait for you to complete your answer before asking another question.

Also, please answer questions so everyone can hear you. The reporter cannot record a nod of the head.

Do you understand this?

A Yes, I do.

Q Okay. Are you ill today; or are you taking any medications, drug or other substance that might affect your act to testify accurately here today?

A No.

Q At any point during this deposition if you feel ill or for any other reason are unable to testify accurately, please tell me immediately; and we shall take a recess.

Is there any reason at all why you cannot testify accurately here today?

A No.

Q Okay. Do you have any questions about what I have just told you or about this deposition?

A No, I don't.

Q All right. How long have you been a special agent for IRS?

A 13 years.

Q Okay. And previous to that how long have you been in law enforcement?

A That's the sum total of my law enforcement.

Q Now, have you attended any law enforcement school or any other school in document analysis pertaining to drug smuggling or money laundering?

A Not a school, per se, I mean some training courses and some training sessions, but not a specific school that I can recall.

Q Okay. You've had some type of training in document analysis?

A Yes.

Q All right.

MR. ROBINSON: I guess I'd like the question clarified. What type of document analysis are you referring to?

Q (By Ms. Sheppard) Pertaining to drug smuggling or money laundering activities.

A Yes.

Q Okay. Tax evasion?

A Yes.

Q Violation of Bank Secrecy Act?

A Yes.

Q Mail fraud?

A Mail fraud?

Q Yes.

A I've had some experience, but I'm not sure that I've ever had any training.

Q Okay. What about kickback schemes?

A I've never been to a training course, I don't think. I've -- I've had some training materials on it.

Q Okay. Now, are you a CPA --

A Yes, I am.

Q -- by -- okay, education. Okay. And how long have you been a CPA?

A Since, I think, February of 1986. I'm not certified in the State of Texas, however.

Q Okay. Now, in your declaration you state that you have no personal knowledge of the allegations made against Mark Rasmusson in the previous criminal case Cause No. EP-90-CR-258-H. Did you review the entire DA case file or any part of it?

A No, I didn't.

Q Okay. Why not?

A I wasn't assigned to the case, and there was no reason for me to be reviewing a case I'm not involved

Charter, Inc., aircrafts?

A I don't remember.

Q Okay. Let me ask you this question: What -- what are your duties as a special agent with the IRS?

A Let me get back to that last one. I think I did check with the FAA.

Q You did? Okay.

A I believe so.

Q What information did you learn from that check?

A Now, that I don't know.

Q Did you -- did you learn any information that indicated that Mark B. Rasmusson or that Rasmark Jet Charter Service were engaging -- or were engaging in any type of criminal activity pertaining to drug smuggling or money laundering activities?

A From FAA records?
Q Yes.
A No, I can't say that I did.
Q Okay. And what about tax evasion, mail fraud?
A No.
Q Kickback schemes?
A From FAA records?
Q Yes.

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A No.
Q Violation of any Banking Secrecy Act?
A No.
Q And let's back up to the previous check you did that you already indicated. Did you see any information that led you to believe that

Mark B. Rasmusson or any of the other plaintiffs violated any tax records, tax violations?

MR. ROBINSON: Which system are you referring to?

MS. SHEPPARD: The previous one.

Q (By Ms. Sheppard) You testified to TECS, your previous searches that you performed.

A Say that again.

Q Okay. The previous background checks that you already testified to --

A Right.

Q -- did you find any information that led you to believe that Mark B. Rasmusson, Debra L. Rasmusson or Andrew A. Gantkessy or Rasmark Jet Charter, Inc., engaged in any type of violations of the Internal Revenue Code, tax evasion, for example?

A No.

Q What about mail fraud?

A Well, no.

the circumstances of how Special Agent Frost obtained the box?

A Just that, you know -- I don't know. It was kind of a mixed-up deal. It had gone through Debbie Rasmusson, and that she had been at the Custom's office; and, you know, I don't remember all the details to it.

Q Okay. Now, in Special Agent Frost's affidavit he indicates that Mark B. Rasmusson and the Rasmusson's were living a lifestyle that -- where they were unsupported by any known sources of income. Now, understanding, you reviewed the contents of that box --

A I looked at -- I looked at what kinds of documents were in there and I looked at a few of them briefly; but didn't do any kind of indepth review of them.

Q And from all of your -- from what review you did, did you find anything in that box to indicate to you possible violations of the Internal Revenue Code, tax evasion, for example?

A Well, the records were incomplete. They didn't cover, you know, like a full year, a full two or three years so that you could go through; and there weren't, like, here's one set of books and here's the other set that you could compare them. So, they were

incomplete records. It wasn't possible really for me to draw a conclusion from the records that I saw.

Q Okay. Now, in your declaration you state that your duties, while assigned to the Criminal Investigation Division at the El Paso Postal Duty, included the identification and evaluation of prosecution potential of individuals suspecting of violation of the

Federal law over which the IRS has investigative authority. Did you evaluate the prosecution potential of Mark B. Rasmusson, Debra L. Rasmusson -- let's take one at a time.

Did you evaluate the prosecution potential of Mark B. Rasmusson?

MR. ROBINSON: Regarding what area of the law?

Q (By Ms. Sheppard) Under the investigative authority of IRS?

A Well, I -- I think I began that process. I worked on this; and when this first came up, I was assigned to several other cases at the same times. This was not by any means my primary concern, and I would work at it and try to get brought up to speed to see what was going on and to assess the IRS' involvement and potential in it as we went along, but it wasn't my primary thing.

And, you know -- so, I can say I started

that process. Later that -- the OSDETF that this arose out of was transferred to another agent.

Q Okay. Who was that agent?

A It was transferred to Rebecca Aguirre.

Q Okay. Now, from the evaluation that you did do, did you find any information that led you to believe that there might have been violations under the IRS investigative authority?

MR. ROBINSON: That there might be a violation, is that the question?

Q (By Ms. Sheppard) Yes, I mean, the potential. Did you find any potential there?

A I felt that the strongest potential would have lied with a Customs violation. If that violation had proven out, then there also would be a potential for some IRS violations because often they kind of go together. But the primary things that I was -- that I

had a little -- had learned information about would have led to a Customs violation.

Q Okay. Now, what specific Custom violation are you referring to?

A A Title 31 violation.

Q And that says what?

A Import and export of over $10,000 currency without declaring it.

Q Okay. And what do you -- what information did you see there that led you to believe there might be a potential violation?

A I didn't see any information.

We're still talking about information in the box?

Q Yes.

A No, I didn't see anything in the box that

would have done that.

Q Okay. And, so, you're saying that if you had seen something, then that would have given you a -- perhaps an avenue to look at in terms of IRS investigative authority. Is that what you're saying? If you had seen something relating to that particular violation, that might have led you to possible violation on the IRS?

A Wait a minute, I think we've got crossed because I wasn't talking about the box, those records. I thought that you were talking about everything that I ever heard or seen or whatever.

Q Okay.

A But now back to the box, I don't -- maybe if you'd start over with that.

Q Okay. Did you see anything from the records in the box that would lead you to believe there was

prosecution potential for Mark B. Rasmusson under the IRS' investigating authority?

A No, I didn't.

Q And the same question in regard to Debra Rasmusson. Did you see any potential there?

MR. ROBINSON: Miss Sheppard, I think it would be fair to -- if you've got a search warrant with the inventory of the contents of that box, if you want Agent Hivick to go through that inventory, that might be the best thing to do.

Q (By Ms. Sheppard) Well, let me go on to another question, and we'll come back to that.

A Well, could I say something?

Q Yes.

A The items in the box were -- were all the kinds of things that in a -- in a tax investigation and

to -- well, to a great extent also in a money laundering investigation those are the kinds of documents that one would use as evidence, but standing alone and without anything else, I didn't see them -- I didn't see it. But they were the kind of things that you would use and that, you know, that you would like to have.

Q Okay. Now, does Customs have an air branch in El Paso, Texas? Are you –

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A Yes, they do.

Q Are you familiar with the type of aircraft that are based in El Paso Air Branch in June of 1993?

A Well, I've been familiar with aircraft they've had over the years. I can't specifically say as to June 1993.

Q Okay. Well, do you recall whether the air branch had a Cessna Citation?

MR. ROBINSON: I'll object to the form

of the question. I'm not sure that this is proper questioning on the issues of qualified immunity. If you could lay a foundation for where you're going for those questions.

Q (By Ms. Sheppard) Let me ask you this question: Have you ever been in any of the Customs' aircraft at any time between June 1993 and the present time?

A Yes, I have.

Q Okay. Have you been in the -- any of their Cessna Citation aircraft?

A Yes, I have.

Q Have you been in the Air Branch Blackhawk helicopter?

A No.

Q Now, have you participated in any operations

involving the use of Customs' aircraft in the Rasmusson investigation?

A No.

Q All right. Do you know any of the names of the pilots that --

A Yes.

Q Okay. Can you give me the names of pilots?

MR. ROBINSON: Asking about -- which time frame are we talking about?

Q (By Ms. Sheppard) We're talking about during 1990 through 1993.

A Well, let's see. Boy --

MR. ROBINSON: And, again, are we asking about pilots that Agent Hivick specifically knows was involved in the investigation that included your clients?

MS. SHEPPARD: Yes.

A Okay. No, I don't know any pilots that were involved in -- in any kind of operation against

Rasmusson.

Q (By Ms. Sheppard) Now, when the --

A Wait, let me --

Q I'm sorry.

A I'm sorry.

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Q No, go ahead.

A Okay. If you want to go back to, like, the first case, the criminal case against Mr. Rasmusson.

Q Yes.

A I do know one pilot that did surveil -- that did air surveillance on Jesse Flores.

Q Okay.

A And he was part of that case, so I suppose --

Q Okay.

A You know.

Q What was his name?

A Glen Spellis.

Q Is he with the -- I mean, with the U.S. Customs Service?

A Yes.

Q Now, what time were you assigned to the Rasmark investigation? When did you receive your assignment to participate in the Financial Task Force investigation?

A Could I see my declaration?

Q Yes.

(Counsel hands witness document.)

MR. ROBINSON: Excuse me, what was the question again?

MS. SHEPPARD: When did she first begin

to participate in the Financial Task Force investigation.

A Somewhere around April of 1992.

Q (By Ms. Sheppard) Okay. And did you participate in the OSDETF committee meeting when they approved this case as an OSDETF case?

A No.

Q Were you present at the meeting?

A No.

Q Did you talk to any individuals from the IRS who were present?

A I don't know who from IRS was present. I would imagine that my group manager at the time was there, but I couldn't say that with any certainty.

Q Okay. How many weeks did you participate in the Task Force, or how long did you participate in the Task Force?

A Well, generally, you know, you're assigned to it and you participate in it until the case is -- is

either -- you've decided, you know, you don't have a case or you continue on through trial, but sometimes you're reassigned.

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In this case I was reassigned after a period of time, and; like I said, at the same time I was assigned to two or three other OSDETF investigations plus a couple of other investigations.

Q Okay. Now, how many days a week did you participate in the Task Force?

MR. ROBINSON: Which Task Force?

Q (By Ms. Sheppard) During -- Financial Task Force, during the period of time that you worked with the Financial Task Force.

A I mean, It's not like you have a room and you walk in, and "9:00 to 5:00 today, I'm on this Task Force." It's -- you know, it's fluid. You might see

somebody or run into something or do one thing and you do it for an hour or two and you jump to something else.

During that period of time -- during the summer -- I don't know when this was, but sometime during the summer of 1992, I had a desk over at the Customs' office and I was working not only on this but on two or three other things plus I was getting ready for trial on a case that Customs was also involved in. So, during the day's time, I would work on many different things.

Q Okay. Now, who was the supervisor of the Financial Task Force at the time you were working at -- at the Task Force office?

A I don't know.

Q Okay. Have you -- are you familiar with John Peterson?

A Yes.

Q Did you have any discussions with John Peterson regarding his investigation pertaining to the Rasmussons?

A I didn't know John Peterson had an investigation on Rasmusson.

Q Okay. Now, did IRS have an open number investigation relating to Mark B. Rasmusson and the other plaintiffs?

MR. ROBINSON: I'll object to the form of the question regarding the other plaintiffs.

MS. SHEPPARD: I'll rephrase the question.

Q (By Ms. Sheppard) Did IRS -- the IRS have an open number investigation relating to Mark B. Rasmusson?

MR. ROBINSON: Object to the form of the question as vague. What time frame are we talking about?

Q (By Ms. Sheppard) Okay. Let me rephrase this way: At the time that you became a member of the

Financial Task Force, did IRS open a case pertaining to the same investigation?

A What same investigation?

Q The Financial Task Force investigation pertaining to Mark B. Rasmusson, Debra Rasmusson --

A At the time -- this is -- this -- that question isn't right. I mean, I can't answer that because it's -- the whole basis of it is not right.

Q Okay. When you -- when the IRS became a member of the Financial Task Force --

A Uh-huh.

Q -- did IRS also open up a separate case file on the investigation pertaining to Mark B. Rasmusson?

A At the time IRS became a part of that OSDETF

investigation, to my knowledge there was no investigation of Mark Rasmusson.

Q Okay. Now, from your work that you did on the Financial Task Force, was Mark Rasmusson ever the subject of a criminal tax investigation?

A Criminal tax investigation, no.

Q Was Debra Rasmusson?

A No.

Q Andrew A. Gantkessy?

A No.

Q Rasmark Jet Charter, Inc.?

A No.

Q Okay. Did you ever refer Mark Rasmusson to IRS examination division for a civil audit?

A No.

Q Debra Rasmusson?

A No.
Q Andrew A. Gantkessy?
A No.
Q Rasmark Jet Charter, Inc.?
A No.
Q Okay. Did you ever fill out a case initiation document relating to Mark B. Rasmusson?
A No.
Q All right. And Debra Rasmusson?
A No.
Q Andrew A. Gantkessy?
A No.
Q Or Rasmark Jet Charter, Inc.?
A No.
Q All right. Did you ever review the tax returns for the Rasmussons?
MR. ROBINSON: Object to the form of the question. Rasmussons or which -- are you talking about both or in particular Mark or

Debra?

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Q (By Ms. Sheppard) Okay, let's -- we'll take one at a time. Did you ever review the tax returns for Mark R. Rasmusson?

MR. ROBINSON: I also object to the vagueness of the question. What years are you specifically asking for?

Q (By Ms. Sheppard) Did you ever review the tax returns of Mark B. Rasmusson pertaining to the Financial Task Force investigation for any years?

A I don't know. I have a feeling that I have seen some of his tax returns, and I don't know whether it would have been his personal returns or business returns. I -- I have a feeling I've seen some of them. I don't know what years, which ones.

I couldn't tell you anything that was on

them. I'm not even for sure I've seen them. I just have a feeling that I did look at some, but I don't -- it -- it didn't make a big impression on me whatever it was.

Q Do you have that same feeling regarding Debra Rasmusson?

A Only if she had filed a joint return with her husband, would have -- but I don't recall anything separate.

Q Okay. What about Andrew A. Gantkessy, did you review --

A No.

MR. ROBINSON: What was the question, about -- regarding Andrew Gantkessy?

Q (By Ms. Sheppard) Yes. Did you review any tax returns of Andrew A. Gantkessy?

A I don't know who Andrew Gantkessy is.

Q Okay. Now, outside of IRS did anyone on the OSDETF task forces have access to income tax returns that you might have reviewed?

MR. ROBINSON: Object to the form of the question. Are you asking her whether she reviewed any tax returns, or did she know whether anybody had access to those tax returns?

Q (By Ms. Sheppard) Did any member of the Financial Task Force ask you to obtain the tax returns for the Task Force to review?

A I don't recall that. If -- if that had happened, then there would have been an ex parte order from the Judge giving us authorization to -- IRS authorization to show them to agents from another agency. I don't have any recollection of it. You know, I just don't know.

Q Okay.

MR. ROBINSON: Miss Sheppard, I'll again

ask you, when you've found an inventory of that box, is there any specific question you can ask her on the box? If she could look at the inventory --

MR. COLEMAN: She could tell if there's any income tax returns in the box by looking at the inventory.

MS. SHEPPARD: Okay. Well, I don't have any further questions on that right now.

MR. ROBINSON: For the record, the inventory of the box has been located. Miss Sheppard is not allowing Agent Hivick to review that to see if there are any tax returns on that inventory.

(Counsel hands witness document.)

Q (By Ms. Sheppard) Agent Hivick, you may review the records if that will help you to recall any information regarding your review of tax returns for Mark B. Rasmusson or Debra Rasmusson or Rasmark Jet Charter, Inc.

A (Witness reviews document.)

Q Okay.

A There are some tax returns in here.

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Q Okay. Do you recall whether you found any information from -- from those documents that indicated -- that led you to believe that Mark B. Rasmusson engaged in tax evasion?

A No, I didn't see anything.

Q Okay. Do you --

A But like I say, these are incomplete records. I mean, for instance, there aren't -- the tax

returns aren't here. Had you had tax returns to compare to here, you might have been able to see something; but these records by themselves, no.

Q Okay. Did you see anything in those records that led you to believe that Mark B. Rasmusson or Rasmark or Debra Rasmusson were engaging in money laundering activities?

A Not from these records I didn't.

MR. ROBINSON: Miss Sheppard, I request that that be marked as an exhibit to this deposition if you're going to ask questions regarding the inventory.

MS. SHEPPARD: We'll mark the inventory as Plaintiff's Exhibit 5, P-5.

(Whereupon Deposition Exhibit No. P-5 was marked for identification and is attached hereto.)

Q (By Ms. Sheppard) Did you have any concern about Mark B. Rasmusson and Debra Rasmusson's lifestyle?

MR. ROBINSON: I'll object to the form of the question, that's vague. I'm not sure it has anything to do with the issue qualified immunity in the IRS portion of this investigation.

Q (By Ms. Sheppard) Okay. Let me rephrase the question and ask it this way: Did you ever determine that the Rasmusson's or Andrew Gantkessy were living beyond their means of reported income?

MR. ROBINSON: Again, I'll object to the form of the question. It's vague. Are you asking her if she ever drew the conclusion or saw any evidence that might lead -- that might be used in that type of investigation?

Q (By Ms. Sheppard) Okay. In Special Agent

Frost's affidavit, he indicates that he had information showing that the Rasmusson's were living beyond their income.

Did you find any information from your investigation of the records that you reviewed that he had unknown sources of income?

MR. ROBINSON: Again, I'll object to the form of the question. Are you asking her if

she knows whether Agent Frost has alleged that, or are you asking her to assume that those individuals were living beyond their means?

Q (By Ms. Sheppard) Let me ask you this question: Have you ever developed any factual basis that the Rasmusson's or Andrew Gantkessy were living beyond their reported income?

A I don't -- I never prepared any kind of a cash flow analysis or any kind of analysis to determine what their reported income was and what their expenses were to make any kind of conclusion like that. I didn't do anything like that.

Q Okay. Can you answer just whether, based on your review of the documents that you saw, did you see anything to indicate that they were living beyond their reported income?

MR. ROBINSON: I'll object to the form of the question. Which documents are we talking about?

Q (By Ms. Sheppard) Okay. Let me ask you this question: Did you ever give any advice to Special Agent Frost that the Rasmusson or that Mark B. Rasmusson were evading income taxes?

A No.

Q Or that Debra Rasmusson was evading income taxes?

A Not that I recollect.

Q Or Rasmark Jet Services -- Jet Charter, Inc., was evading taxes?

A No, I don't think so.

Q Did you ever recommend, based on your review of the documents in the box, recommend prosecution of Mark B. Rasmusson for violation relating to Form 8300?

A No.

Q Or Form 4789?

A Did I recommend prosecution?

Q Yes.

A No.

Q Okay. Or Form 4789?

A No.

MR. ROBINSON: For the record, would you

identify those form numbers, please.

MS. SHEPPARD: Okay. Form 8300 is the violations of the -- let's see, the reporting requirements for coming in or -- oh, in the trader business.

Q (By Ms. Sheppard) You're familiar with Form 8300, are you not?

A Uh-huh.

Q Okay. What is the Form 8300?

A It's a form that businesses fill out when they receive more than -- $10,000 or more in currency as part of their business.

Q Okay. And what is Form 4789?

A I believe the 4789 is the CTR. It's the Currency Transaction Report.

Q Right. Okay, CTR.

Did you participate in any of the trash pick ups relating to Mark B. Rasmusson's residence?

A No.

Q Were you present at the Customs' office on May 23rd, 1992, when Debra Rasmusson was there?

A I have never seen Debra Rasmusson to my knowledge.

Q Okay.

A But, now, I don't know that date and I don't know if I could have been at that office that day, but if I were there, I didn't see her.

Q Okay. Now, in your declaration you stated that you did just a cursory review of the records in the box. Why didn't you prepare work papers, the -- a cash flow analysis or any type of analysis you could have done from those particular records?

A Well, at the point that I was at in the –

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MARK B. RASMUSSON, et al., Plaintiffs,	*	
VS.	*	CIVIL ACTION: EP-95-CA-475-F JURY DEMAND
LAWRENCE E. FROST, et al., Defendants	*	

DEPOSITION OF FRED SCHROEDER

January 17, 1997

Q Drug smuggling.

A Yes, ma'am.

Q Okay. Have you worked any cases in the past pertaining to money laundering activities?

A Yes, ma'am.

Q Are you familiar, then, with the fact that often in money laundering cases that financial records and documents are used to determine whether these -- any criminal activity is taking place?

A Yes. There are -- there's several types of analysis that are done on them.

Q Okay. Did you have any type of analysis done on the records from Rasmark to determine if they reflect any type of criminal activity relating to drug smuggling or money laundering?

A As I stated to you earlier, Lee Whitess and

Hector Barrera did examine the documents.

Q And did you get a report from Lee Whitess or Hector Barrera?

A I don't believe there was a written report.

Q Okay. What about pertaining to tax evasion. Did you get a report? Did anyone do a analysis to determine if those records reflect tax evasion?

A I don't know.

Q What about mail fraud? Did anyone do an

analysis to determine that those records reflect mail fraud?

A The original records that were from --

Q The records subpoenaed by DEA from Albert Apodoca?

A I don't know what type of analysis DEA did during that investigation.

Q My question is: Did the Financial Task Force do any type of analysis on those records?

A I don't know whether we ever got all of the records from the DEA or any of the records that they subpoenaed from DEA.

Q So, is it your testimony then that you have not seen any type of analysis reports pertaining to those records performed by Financial Task Force members?

A Pertaining to the original subpoenaed records from DEA?

Q Yes.

A No, I have not seen a report on those.

Q Okay. Did you check any of the court records pertaining to lawsuits for Rasmark Jet Charter Service or for Mark B. Rasmusson?

A Yes, I did see some lawsuit records during the course of the investigation.

Q Okay. And did you do any type of follow-up

to determine whether they reflect information regarding his sources of income?

A I believe we obtained the documents and read them to see if there was any listing of sources of income in there.

Q And did you find any information that led you to the sources of his income?

A To specific sources of income?

Q Yes, for Mark B. Rasmusson?

A The one thing that comes to mind is the inheritance was listed in the --

Q Okay. And did you find any information that led you to believe that the inheritance was not a legitimate source of income for Mark B. Rasmusson?

A No, ma'am.

Q Okay. Did you check the real property records including mortgage liens or tax records?

A Yes, we did check the mortgage liens and some tax records.

Q Did you find any records in the name of Mark B. Rasmusson or Rasmark Jet Charter, Inc.?

A Yes, I believe there were some records.

Q Did you do a follow-up to determine whether those were legitimate transactions, or were they pertaining to any type of illegal activity?

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A We did follow-up on the purchases, yes.

Q Were any -- did you make any determination whether those -- any of the properties that you reviewed were the product of -- were proceeds of unlawful activity, criminal activity?

A I don't know whether we tried to prove whether they were proceeds of illegal activity or not.

Q Well, this was a money laundering

investigation; isn't that correct?

A Yes.

Q And isn't one of the ways you detect money laundering is looking at the property to see if it represents proceeds or some specified unlawful activity?

A Yes, it is.

Q Did you find any such unlawful proceeds -- did any of this property represent unlawful proceeds pertaining to Mark B. Rasmusson?

A Not to my recollection we did not.

Q Any proceeds -- any of the Rasmark Jet, Inc., property, did you find any of it related or constituted proceeds from unlawful activity pertaining to money laundering or drug smuggling?

A Not that I know of.

Q Okay. Did anyone else on the Task Force bring to your attention any evidence that indicated to

you that any of Mark B. Rasmusson's or Debra Rasmusson's property or Rasmark Jet Charter, Inc., property was proceeds of unlawful criminal activity pertaining to money laundering or drug smuggling?

A I can't answer that entire question because of ongoing investigations.

Q What type of ongoing investigation?

A Ongoing criminal investigations.

Q Against whom?

A I can't answer.

MR. ROBINSON: I object to the form of the question. He's not authorized to testify about that.

Q (By Ms. Sheppard) Well, do you have an ongoing investigation against Mark B. Rasmusson?

MR. ROBINSON: I object to the form of the question. He cannot testify regarding

that.

Q (By Ms. Sheppard) Okay. Did you check out the Secretary of State records.

A I did not.

Q Okay. Now, you stated that you did review some of the criminal trial records from the original criminal case against Jesus Flores. Did you interview Ronnie Stinet (phonetic) or Juan Castillo of the

Q Okay. Now, what were you doing prior to this investigation? Were you in El Paso?

A Yes, ma'am, I've been assigned to El Paso since 1987.

Q Okay. Did you assist John Peterson in any of his investigation of Mark B. Rasmusson?

A No, ma'am, I did not.

Q Okay. Did you ask him for all his case

files?

A No, ma'am, I did not.

Q Did you discuss Mark B. Rasmusson with John Peterson at all?

A No, I don't believe I did.

Q Now, what was your responsibility with the Financial Task Force? I know you stated that you were the team leader, but what were your specific duties? What part were you supposed to handle?

A The coordination of that particular portion of the investigation.

Q And that portion pertaining to what?

A Mark Rasmusson and the Rasmark Jet Charter.

Q Okay. And when you said to organize that exactly, were you to organize the people, organize the assignments? What part were you doing?

A Organize the people, gave out assignments as

agreed upon by myself and, of course, Larry Frost who was the overall case agent.

Q Okay. Now, in your declaration you refer to task force participants. Can you give me the names of the two El Paso County deputy sheriffs that you're referring to as participants?

A Detective Neil Baker and Detective Jerry Keith.

Q Okay. And you also referred to FBI special agents. Who were you referring to in your declaration as FBI special agent?

A Joe Acosta.

Q Did these individuals you just named, Neil Baker, did he work full time on the case?

A Yes, he did.

Q Did Jerry Keith work full time on the case?

A Yes, ma'am.

[App. 576-577 omitted]

Q Okay. What about Joe Acosta? Did he work full time on the case?

A Joe Acosta had other assignments during that period of time also.

Q Did you conduct a vehicle or fix surveillance from the Rasmusson residence -- of the Rasmusson's residence on 11157 Leo Colins?

A What -- I don't really understand what

you're --

Q Okay. Did you conduct surveillances of Rasmark residence on 11157 Leo Colins Drive?

A Yes, we did.

Q And how were those surveillances conducted? Were you in a fixed location?

MR. ROBINSON: I'll object to the form of the question. You're asking for

investigative techniques. He's not authorized to testify regarding those.

Q (By Ms. Sheppard) And approximately how many surveillances did you conduct of the Rasmusson residence?

A I don't recall a number.

Q Was this just a periodic or was it a continuous surveillance?

A It was periodic. It was not continuous.

Q Okay. And over what period of time did you conduct a surveillance of the Rasmusson residence?

A During the period of time that I was assigned to the Financial Task Force?

Q Yes, what -- yes, what period of time -- over the period of time that you were assigned to the Task Force, what period of time out of that did you conduct these surveillances?

A They were periodic surveillances during my tenure at the Task Force.

Q And when was the last surveillance conducted of the Rasmusson residence?

A It would have been in November of 1993.

Q Okay. Now, from all of the surveillances that you conducted, what information did you obtain that led you to believe that Mark B. Rasmusson was participating in either drug smuggling or money laundering?

A Part of what we're referring to as a periodic surveillance was obtaining the residential trash from that location. We found drug paraphenalia in the trash, pipes that tested -- had residue that tested positive for cocaine, marijuana, heroin.

Q Okay. And which one of those -- well, let me ask you this: Did you gather up that evidence and

then turn it into the evidence room?

A Yes, ma'am, I did gather up the evidence.

Q Okay. And did you maintain a chain of custody on the evidence?

A Yes, ma'am.

Q And the evidence is in the evidence room today, as we speak?

A Yes, ma'am, the evidence is in the evidence

supervisor?

A On the telephone one time, yes, ma'am.

Q And how many times have you obtained this approval? How many times -- do you have to request for each occasion that you want to pick up the trash or do you just make one blanket request and they approve one blanket request for you to pick up trash as many times as you want to?

A You submit a request saying that you're going to receive trash from a specific location. You make your arrangements and when your investigation is concluded or when you no longer need that, then you just tell the truck that you won't be back anymore.

Q Okay. Now, do you get the names of the sanitation drivers, the truck drivers that pick up the trash?

A No, ma'am.

Q Do you make -- now when you contain all these -- in Frost's affidavit he lists all these documents that he obtained out the trash from your pick ups, trash pick ups?

A Yes, ma'am.

Q Did you log all those documents into evidence?

A Yes, ma'am.

submit any of these documents to document analyst to determine if there was any criminal activity relating to money laundering in those documents?

A What kind of document analysis?

Q To determine if the documents represent or reflect any type of criminal activity pertaining to money laundering or drug smuggling.

A We don't routinely submit just any document for analysis. One single document won't stand on its own as evidence.

Q Well, according to the affidavit you had -- you seized numerous documents from the trash, so you have more than one. Did you put all those documents together and have them analysed to see if you determine whether they represent any money laundering activities or drug smuggling activities?

A No, ma'am. We did not submit them to any

outside entities for any kind of analysis.

Q Okay. What about custom document analyst. Do you have any -- well, you had Fonda Hivick of the IRS on the Task Force team, CPA and qualified in document analysis. Did you submit those documents to her for analysis?

A I don't believe Agent Hivick was on the -- on the Task Force when I was assigned. If she was, it

was only for a short time.

Q What about Agent Rebecca Aguirre?

A I don't know how much of the documents she went through while she was there.

Q Okay. Did you receive any reports back from any agent's review of the documents that indicated to you that they detected -- the documents reflected some type of criminal activity pertaining to money laundering or

drug smuggling?

A I never got any written reports on that specifically, no.

Q Did you personally identify any documents yourself that you -- that led you to believe that Mark B. Rasmusson or Debra Rasmusson were engaging in some type of drug smuggling or money laundering activities?

A We found foreign banking, foreign bank account documents that came out of the trash. As far as the follow-up on those documents, it's very difficult in foreign countries to get specific information on bank accounts.

Q Did you make any efforts to get any information on foreign bank accounts relating to Mark B. Rasmusson?

A I believe Agent Frost testified that, yes, he did make that effort.

Q How many foreign bank accounts did you uncover in Mark B. Rasmusson's name or Rasmark Jet Charter, Inc., name?

A The only one that I'm aware of is a Mexican account.

Q And whose name was that bank account in?

A I believe it was Mark Rasmusson's name.

Q And did you find any information that led you to believe that that bank account would have been used for money laundering activities?

A Without having the entire documents from the bank account, I can't -- I can't say whether there was any information or not about that.

Q After all the records were seized on November 22nd, 1993, did you review those records to see if you saw any documents from Banamex Bank, I assume that's the bank you're speaking of; is that correct?

A Yes, ma'am.

Q Did you find any records in the -- from the November 22nd, 1993, seizure?

A Yes, ma'am, there were a few.

Q Okay. And did you detect anything in those records that would have led you to believe that they were engaging in money laundering activities?

A Once again, ma'am, those records were

incomplete; and we did not obtain the entire account.

Q Now, you recall the interview Andy Gantkessy in June -- on June 2nd, 1993?

A Have you got a document that I can refer to?

MS. SHEPPARD: Yes, we'll mark this as --

(Whereupon Deposition Exhibit No. P-10 was

marked for identification and is attached hereto.)

Q (By Ms. Sheppard) Do you recall that interview?

A Yes, ma'am, I do.

Q Okay. Did you prepare the Customs' report relating to the interviews of June 2, 1993, and June 3rd, 1993?

A Yes, ma'am, I did.

Q Did you make an appointment prior to that interview with Andrew Gantkessy?

A Which interview are you speaking of?

Q June 2nd, 1993?

A Prior to the June 2nd interview?

Q Yes.

A No, ma'am, I did not.

Q If no, why not? Since you said no, why not?

Why didn't you make an appointment?

A I was not running that specific interview. That was being handled by Agent Frost.

Q Okay. Now at the time that interviewed occurred was Andrew Gantkessy a target of investigation by the Financial Task Force?

A I don't believe he was a target. I believe he'd come up in connection with the activities of Rasmark Jet Charter.

Q Okay. Was -- were any other agencies participating in the Financial Task Force targeting Andrew Gantkessy as participating in any type of criminal activity?

A Not to my knowledge.

Q Okay. Now, how many agents -- agencies participated in that particular interview of June 2nd, 1993?

A There were three different agencies.
Q How many agents were there?
A Five -- four special agents and one detective.
Q Okay. So, what was the purpose of having so many agents at this particular interview?
A There was no specific number assigned to it. As Special Agent Frost testified to, there were people in

the area at the time that the interview came to occur, and these are the people that were there and the people that proceeded inside during the course of the interview.
Q So, you're saying there were agents at Ford Motor Company at various locations and they just converged at Andrew Gantkessy's office?
A No, ma'am.
Q How did they know to come to that particular location?

A Agent Frost told us that he was going to go in there and talk to Mr. Gantkessy.

Q Okay. So, this happened at a prior time then that he contacted each of these agents and told them that he was going to be there?

A Yes, I believe so.

Q And now, prior to this interview were you or the Task Force members aware that Andrew Gantkessy suffered from several heart attacks in the past?

A No, ma'am.

Q And what was the basis -- what information were you expecting to get from Andrew Gantkessy on June 2nd, 1993?

A To find out if, in fact, that there had been payoffs and the purpose of the receiving of the money, any other information he could provide us.

Q Okay. Now, what Federal violation were you investigating at that time in relationship to payoffs to Andrew Gantkessy?

A Once again it would depend upon how the money was used and why the payoff was made, is what we're looking into.

Q Pertaining to what Federal violation?

A Well, did it cause the false tax reports to be filed? Was there interstate commerce violations?

Q Okay. And did you --

A Or international commerce violations.

Q Okay. Now, if you were concerned about false tax violations, why wasn't the IRS agency there to participate in the interview?

A Which interview are you talking about?

Q June 2nd, 1993?

A June 2nd was just a preliminary interview.

Q Now, if you suspected that Andrew Gantkessy was involved in any type of illegal payoff, shouldn't he have been advised of his rights?

A What I said was we were there to determine if there had been any, not that he was a suspect. We were trying to find out what exactly had occurred.

Q Okay. And did you attempt to, in your -- let's see, why did that interview end on June 2nd, 1993?

MR. ROBINSON: Excuse me. Was the question "Why"?

Q (By Ms. Sheppard) Did it end abruptly? Why didn't you complete your interview of June 2nd, 1993?

A For that part of the interview we did complete it.

Q Okay. And what information -- what additional information did you need from Andrew Gantkessy that you did not get in June 2nd, 1993?

A Specific amounts, if he could remember any dates, any other people.

Q Okay. And did you personally request that he come to the Customs' office on June 3rd, 1993?

A I believe I gave Mr. Gantkessy a business card and we made arrangements that he would call me and come down on the following day which was June 3rd.

Q When you say you made arrangements, how were the arrangements made?

A Verbally.

Q Yes. Did you tell him to come down there?

A I requested him to come down, yes.

Q Okay.

A I did not order him.

Q All right. Now, once he was at your office on June 3rd, 1993, did you attempt to recruit him to wear

a wire tap?

A To do what?

Q To wear a -- to tape -- to wear a wire to tape conversations between him and Mark Rasmusson or Debra Rasmusson?

A (Witness reviews documents.)

Q Let met ask you this question: How often in the past three years have you interviewed a suspect not in custody with five or more agents? Is that a common occurrence?

A Sometimes it does occur, yes, depending upon the situation especially if it's in a Task Force environment; and as I previously testified at that time, I didn't classify him as a suspect. I said that we wished to find out what his involvement was and what was going on. I never used the word "suspect."

Q Did you ever advise Andrew Gantkessy that he could possibly lose his job because of his involvement with Mark Rasmusson?

A No, ma'am, I don't know what the policies

were at Ford Motor Company.

Q Did you ever ask Andrew Gantkessy to cooperate with you and to wear a wire to tape conversations?

A I don't find that in my report, and I do not

believe that I did so.

Q Okay. Did you tape the interview of June 2nd, of 1993, with Andrew Gantkessy?

A As I said I was not running the interview on June 2nd, 1993. I did not tape it.

Q Was it taped by any other member that participated in that interview?

A Not that I know of.

Q Did you take notes?

A Yes, ma'am.

Q Okay. And do you still have those notes?

A I don't know whether I do or not. I transferred all notes or documents into the report of the investigation that you provided me here.

Q Okay. Did any of the other members take notes? Do you recall?

A I do not know.

Q Okay. Were any threats made to Mr. Gantkessy pertaining to if he failed to cooperate that he would be arrested?

A Not to my knowledge.

Q If he didn't agree to the interview on June 3rd, 1993, were any threats made to him if he failed to come to your office on June 3rd, 1993?

A Not to my knowledge.

Q Okay. Now, how long did the interview last on June 2nd, 1993?

A Just a very few minutes.

Q Five minutes?

A I don't know specific time. It was less than 15 minutes.

Q Okay. How long did the interview last on June 3rd, 1993?

A I believe it was approximately an hour to an hour and a half.

Q Okay. Did you ever ask Andy on the occasion of June 3rd, 1993, to be wired so that you could monitor the telephone conversation between him and Mark B. Rasmusson or any -- or Debra Rasmusson or any other employee that answers Rasmark telephone?

A No, I don't recall doing that.

Q Did you ever ask him to wear a wire at all?

A No, ma'am, I don't recall asking him to wear a wire.

Q Did Joe Acosta ask him to wear a wire to monitor telephone calls?

A Not that I recall.

Q Now, did you attend the meeting with Ford management officials including T. M. Ponnaville on September 24, 1993?

A I met with some Ford officials. I don't recall what date that I talked with them.

Q Okay. Do you know who scheduled that meeting?

A No, ma'am, I don't know who scheduled it.

Q Did Ford contact U. S. Custom Service or did the U. S. Custom Service contact Ford?

A As I stated I don't know who scheduled the meeting.

Q Okay. What was the purpose of the meeting?

A I was told by Agent Frost that they wanted some more information about a letter that had been

forwarded to them concerning the interview of Andy Gantkessy.

Q Okay. And on that occasion what information -- additional information did you tell them?

A I don't recall giving any additional information to them. They asked me if I had, in fact, interviewed him, and I stated, yes, I had.

Q And where did this meeting take place?

A I believe it was at the El Paso International Airport, a patio area.

Q Okay. And that's the sum and substance of the conversation that you can remember? That's all you recall that you said? Is that all you said to Ford to

Tom Ponnaville.

A As I told you, I don't remember who was there.

Q Okay.

A I did talk to some people from Ford, and I related to them the information that I just told you.

Q Did you recommend that the Ford officials speak to Bob Hunter?

A Yes, I believe I did.

Q Okay. What was the basis of that recommendation?

A To follow-up on possible information.

Q What information?

A Payoffs by the Rasmussons to Andy Gantkessy.

Q Okay. So, did you interview Bob Hunter?

A Yes, I did.

Q And what information did he tell you?

A He told me that Mark Rasmusson had told him that Debbie Rasmusson was paying Andy Gantkessy but he did not condone the payments.

Q Okay. And what follow-up investigation did you do to coroborate this information?

A As I stated to you earlier, Chris Hines told me that and Andy Gantkessy, himself, told me that he had received payments from Debra Rasmusson.

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Q Did you ever obtain any records to document these payments?

A I don't recall whether we got specific records or not.

Q Okay. Now, the -- did you -- let me ask you this: Did you tell the Ford officials that Andy Gantkessy would most likely have major problems with IRS because it would be established that he had been receiving payoffs from Rasmark?

A I don't recall making that statement the way it's worded.

Q Okay. Well, how did you state anything pertaining to Andrew Gantkessy might be investigated by

IRS for payoffs or for tax evasion or anything relating to laws that are carried out by -- that are enforced by IRS?

A The way I recall the question was -- is I was asked if there were -- was any information to indicate that he had declared it on his taxes; and I said "I believe Mr. Gantkessy told me, no, he had not." I did not make any speculations about what would or would not be done.

Q Okay. Now, did you follow up and get -- order tax return forms to see -- to coroborate to see if any information, any income was reported beyond what he

earned from his job?

A I don't remember whether we got his tax returns or not.

Q Okay. Okay. Now, this statement you just

stated in regard to Andy said he wasn't reporting it, did you put that in your report?

A (Witness reviews document.) No, ma'am, I did not.

Q Okay. Did you report that information to IRS for them to follow-up on?

A As I stated earlier IRS was a member of the Task Force and all this information was available to them. I did not go to a specific agent.

Q How would they know it if it's not in the report?

A They would not.

Q Okay. Did any criminal prosecution come out of the information that you obtained from Mark B -- from Andrew Gantkessy regarding these payoffs that you said he told you about?

A No, ma'am, not to my knowledge.

Q Was it ever documented that Andrew Gantkessy received kickbacks from Rasmark Jet Charter, Inc.?

A All the payoffs that were received were documented, yes, ma'am.

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Q Okay. The only ones you're speaking of is what you have in your report --

A Yes, ma'am.

Q -- is that correct? All right. Now, the records that FBI subpoenaed from Ford Motor Company, did you review those records?

A No, ma'am, I did not.

Q Were you aware that all of those records contained all the invoices pertaining to the business between Rasmark and Ford Motor Company?

A As I stated, I did not review the records. I don't know what they contained.

Q Okay. Did you tell Ford Motor Company that

Mark Rasmusson, in a moment of anger over a pending divorce, made the statement to Hunter that Andrew Gantkessy got paid off big time. Did you tell that to Ford?

A No, ma'am, I don't believe that's the way I stated it.

Q How did you state it?

A As I told you earlier, I received information from Bob Hunter that Mark Rasmusson had indicated that Andy Gantkessy was being paid by Debra.

Q Did you tell that to the Ford officials?

A Did I tell them what?

court when I was subpoenaed.

Q Okay. Did Ford Motor Company provide you with any investigative leads pertaining to Mark B. Rasmusson?

A No, ma'am, they didn't give me any leads.

Q Under what Custom policy would you testify on behalf of Ford about Andrew Gantkessy's activities?

A As I just stated, I told the Ford employees that if I received -- if I received a subpoena from court, from a court, that the subpoena would be taken to the U. S. Customs regional counsel and I would be told what I could or could not testify to.

Q Okay. What firsthand evidence, what personal knowledge did you have of any Andrew Gantkessy's activities that you could testify to?

A I could testify to Andrew Gantkessy's statements about receiving payoffs from Mark and Debra Rasmusson.

Q Okay. And did that -- did anything he said to you in that interview represent a violation of the -- any of the U. S. Customs laws?

A Once again, it would depend on why the payoffs occurred and what paperwork or what other actions

were caused by those payoffs.

Q Did you obtain any kind of independent

corroboration that Andrew Gantkessy were participating in mail fraud?

A Once again, it would depend upon what paperwork was filed and if it was mailed, if the payoffs caused some kind of paperwork to be filed or mailed whether that would be mail fraud.

Q Well, did you obtain any independent evidence of it? Did you ever get any kind of corroborating evidence?

A No, ma'am, I don't recall any at this time.

Q Did you obtain any kind of corroborating evidence of kickback schemes between Andrew Gantkessy and Mark B. Rasmusson or Debra Rasmusson or Rasmark other than what you just testified to, what's in your report?

Did you get any other independent corroborating evidence?

A Yes, ma'am, I do recall some pieces of paper that were seized during the execution of the search warrants that show that Andy Gantkessy was receiving some money from the Rasmussons.

Q Okay. And do you have those piece -- were those pieces of paper identified and entered into your evidence records?

A Yes, they were.

Q Did you maintain a chain of custody on those pieces of paper?

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A Yes, we did.

Q What do those pieces of paper say?

A One is a receipt from Las Vegas with a handwritten notation across the top "Andy's expenses," I'm not sure how the notation is written. "Expenses for

Andy" or "Andy's expenses"; and then there's a check corresponding with the same amount on it said, "Due owners" on top of the receipt.

Then there's a corresponding receipt for a check where the Rasmussons received the same amount back from a business checking account.

Q Okay. And did you follow-up to see if any illegal activity occurred pertaining to that check or that amount of money that he received for expenses?

A No, ma'am.

Q Okay. Now, does the Custom Service investigate mail fraud?

A We investigate a variety of laws; and under a task force situation such as this, it would come into the --

Q Does the Custom Service have a statutory authority to investigate mail fraud?

A I don't know whether we would under a Task Force situation or whether we'd rely on the U. S. Postal

inspectors to do that.

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MARK B. RASMUSSON, et al., Plaintiffs,	*	
VS.	*	CIVIL ACTION: EP-95-CA-475-F JURY DEMAND
LAWRENCE E. FROST, et al., Defendants	*	

DEPOSITION OF JAMES HOLLAND

January 17, 1997

A But it wouldn't be the same unit he was in.

Q Did you ever have any occasions prior to this Financial Task Force to go to Rasmark for any -- in response to any type of complaint filed by Rasmark against anyone?

A Prior to this?

Q Yes.

A To my assignment to the Task Force?

Q Yes.

A No, ma'am.

Q Now, back to George Salas, when did you first become aware of George Salas and his involvement with the Financial Task Force?

A When I came over to the Financial Task Force.

Q And what -- what day are we speaking of?

A Around January. I don't have the exact

date, but it was early around January of 1993.

Q Okay.

A And sometime after that, it wouldn't be the first day I got there; but somewhere as it progressed I learned about his involvement in the case.

Q And what information did you learn about his involvement in the case?

A What I heard?

Q Yes.

A Okay. To my recollection it involved him bringing Debra Rasmusson and a box of documents to the Customs' headquarters on the east side of town; and that's pretty much it, ma'am.

Q Okay. Now, in Frost's affidavit he stated that there was a conversation that occurred between you and George Salas in November, in fact, on November 10,

1993. Do you recall that conversation?

A From review of the documents, yes, ma'am.

Q Okay. Did you contact George Salas, or did he contact you?

A As I -- as I recall here in my -- I brought the stuff with me -- but as I recall I contacted him as directed by Agent Frost.

Q Okay. And what did Agent Frost request you -- what did Agent Frost say was the basis of his request?

A To my recollection that was during the time that Agent Frost was preparing search warrants, and he needed, you know, certain issues would come up that needed a little more clarification. So, I got hold of Mr. Salas to clarify where the -- the box of records had come from.

Q And what did Mr. Salas tell you?

A From Rasmark Jet Charter business.

Q Okay. And did he tell you whether he -- did he give you any additional information regarding the box?

A No, no, ma'am. I believe that was all I was required to ask him and get back with Agent Frost.

Q Did he discuss any other aspect of his relationship to the Rasmussons?

A Not with me, no, ma'am.

Q Okay. Did he discuss with you any his relationship to Debra Rasmusson?

A No, ma'am.

Q Did he discuss with you the fact that he acted as a -- that he was employed by the Rasmussons as a bodyguard for the Rasmussons?

A Other than that phone conversation that I already testified to, I didn't discuss anything pertaining to this case, any of the elements of this case with him.

Q Okay. Now, on the occasions that you performed the trash pick ups of the Task Force, were you alone on any of these occasions?

A No, most of the time it was two people; but sometimes, you know, court would come up at the last minute for somebody or something and -- but, ultimately, I would still connect with Agent Schroeder.

Q Okay. And did you make a request to the

Q Okay. And did you do any trash pick ups at the Rasmark business location at 6805 Boeing Drive?

A Not to my knowledge.

Q Okay. Now, in your declaration you state that you picked up residential trash from 11157 Leo Colins, El Paso, Texas, on May 13, 1993, June 17, 1993, and June 28, 1993. Are these the only dates that you conducted the trash pick ups?

MR. BAKER: It's on page 2 of your affidavit, your affidavit.

A Give me a minute ma'am, please, I just have to confirm your -- I'm sure I picked -- no, I picked up the trash more times than that, ma'am.

Q (By Ms. Sheppard) Okay. Now, back to picking up the trash. How far from the house did you meet the sanitation worker to get the trash?

A If you're familiar with it, it's in, like, a horseshoe configuration. So, it would be right around the corner. The trash man would come up west there and then make the horseshoe and go back east. We would be around the corner.

Q Okay. And do you have names of any the sanitation workers that you retrieved the trash from?

A Not that I recall, no, ma'am.

Q Did you write any reports relating to your

retrieval of the trash?

A No, ma'am.

Q Do you, yourself, go through the trash and identify what documents or objects were in the trash?

A After learning on-the-job training, yes, ma'am, I would look for intelligence information.

Q Okay. And what type of on-the-job training were -- are you speaking of?

A Well, as the Task Force progressed, I became more experienced, learned more about financial crimes and so forth; and, you know, I would know that certain documents, particularly banking documents, things like that, would be necessary for me to show to the case agent.

Q I see. And, so, as you're becoming more experienced in going through the documents, did you identify any documents that you felt were pertaining to

money laundering activities?

A That wasn't for me to determine, but, no, I'd say no.

Q Okay. Did you log in each and every document and object that you took out of the trash?

A That was done by Agent Schroeder, ma'am.

Q So, did you just hand the bag of trash to Agent Schroeder, or did you look in the bag first?

Rasmark?

A I don't recall any conversation of that type, ma'am.

Q Did you -- did you or Agent Schroeder tell Ford officials that Bob Hunter was a willing participant who would quickly describe his knowledge of Andrew Gantkessy's cheating Ford out of large sums of money?

A I don't recall that particular statement,

no, ma'am.

Q Okay. Do you recall whether you or Agent Frost told Ford officials during your meeting that Mark Rasmusson, in a moment of anger over a pending divorce, made a statement to Hunter that Andrew Gantkessy got paid off big time?

MR. BAKER: Excuse me.

A You mean Agent Schroeder, ma'am?

Q (By Ms. Sheppard) Yes, Agent Schroeder.

MR. BAKER: Yeah, you said "Frost."

Q (By Ms. Sheppard) Oh, I'm sorry, Agent Schroeder.

A No, I don't recall that -- that remark, ma'am.

Q All right. Did you attend the -- the meeting of June 2nd, 1993, at Mr. Gantkessy's office?

A Yes, ma'am, if the record is correct, yes,

ma'am, June 2nd.

Q Okay. Do you recall where you were at the time that you were contacted about that particular meeting?

A This was the first meeting, right?

Q Yes.

A I -- to the best of my recollection I was -- I believe I was sitting in a car outside the establishment.

Q Okay. Do you recall the reason why you were sitting in a car outside the establishment?

A There was some plan at that point, and I'm not -- I don't recollect the plan in it's entirety, but it involved surveillance. So, I was there conducting surveillance.

Q You were conducting surveillance of Ford Motor Company, or you were -- who were you conducting

surveillance of?

A I was conducting surveillance and I don't recall at this time whether it was to tell when Mr. Gantkessy arrived or left or what, but I was there doing surveillance.

Q Okay.

A And it was in reference to Mr. Gantkessy.

Q All right. And who gave you that

assignment?

A It would be through the Task Force, a meeting, Agent Frost.

Q All right. And on this particular occasion, the meeting with Mr. Frost and he gave this assignment, what other -- what did he say that was the basis of this assignment?

A As I've already said, I don't recollect the

entire plan. I just recall that everybody wound up there.

Q And who is everybody?

A The people that were in -- I can look at the record. The people that were in at that first meeting.

Q Do you have a recall of who were at the meeting?

A I can -- Joe Acosta, myself, Larry -- or Agent Frost, Agent Schroeder and there may have been -- I'd have to look at the record -- somebody else. You want me to look?

Q Well, no, not at the moment. Do you take notes during this meeting of June 2nd, 1993?

A No, ma'am.

Q Okay. Do you record the meeting by tape recorder?

A No, ma'am.

Q All right. At this meeting in September -- let's see, September 24, 1993, with the Ford officials, did you or Agent Frost tell the Ford officials that it was important for them to know that the second meeting which occurred on June 3rd, 1993, with Mr. Gantkessy was at his request, that Mr. Gantkessy volunteered to volunteer all this information that -- that you told him --

MR. BAKER: Excuse me.

Q (By Ms. Sheppard) -- or that was given at the meeting?

MR. BAKER: I'm sorry. You said "Frost" again.

MS. SHEPPARD: Schroeder, I'm sorry, Agent Schroeder.

A I don't recall that statement at all. I believe if it was made, I would have recalled it.

Q (By Ms. Sheppard) Okay. Did you tell -- did you or Agent Schroeder tell, during this same meeting of September 24th, 1993, tell the Ford officials that Mr. Gantkessy was not asked, threatened or coerced into saying anything that he told you on -- on those two occasions?

A I don't recall the substance of that, no, ma'am.

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Q Okay. Do you recall the substance, any part of the conversation that took place with the Ford officials?

A To my recollection, I can't give you verbatim, per word; but to my recollection the content of that discussion pertained to a lot of the information that Ford had. I know we were in touch with Ford at that time because we were getting information and cooperation from them, and to my recollection the content was more as

to information from them and to what they were going to help us with. I don't -- these other things, I don't recall, ma'am.

Q Well, now, do you recall any information that you gave to Ford?

A We may have discussed -- any information given to them?

Q Pertaining to Mark B. Rasmusson, Debra Rasmusson.

A I know that a discussion was held, but I can't verbatim tell what it was, what information it would be.

Q Okay. Do you recall whether you told Ford Motor Company about Debra Rasmusson giving Andrew Gantkessy marijuana?

A I don't recall that, no, ma'am.

that you knew to be false or illegal. Did you prepare any reports for the Financial Task Force pertaining to Mark B. Rasmusson and the other plaintiffs?

A No, I didn't have to -- pertaining -- I didn't prepare any investigative reports, ma'am.

MR. BAKER: Except this.

A Except, yeah, for another investigation, ma'am.

Q Okay.

MR. BAKER: The El Paso Police Department Case No. 933331777.

Q (By Ms. Sheppard) And is that pertaining to money laundering or drug smuggling?

A No, ma'am.

Q Is it pertaining to tax evasion?

A No, ma'am.

Q Is it pertaining to mail fraud?

A No, ma'am.

Q Is it pertaining to violations of Bank

Secrecy Act?

A No, ma'am.

Q Are you familiar with the section in the El Paso Police Department called the Alpha section?

A Alpha?

Q Yes.

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Rasmark business, did you observe any criminal activity pertaining to drug smuggling taking place?

MR. BAKER: I'll object again and instruct him not to answer.

Q (By Ms. Sheppard) Okay. On any of the occasions that you observe -- that you performed surveillance at Rasmark Jet Charter, Inc., business location, did you observe any criminal activity relating to money laundering?

MR. BAKER: For the same basis, under

the same objection. I'll instruct the witness not to answer.

Q (By Ms. Sheppard) Okay. Now, on any of the occasions that you performed various activities, did you see any loading or unloading of the aircraft?

MR. BAKER: Are you again asking about surveillance at Rasmark as opposed to the residence?

MS. SHEPPARD: Yes. At the business location.

Q (By Ms. Sheppard) Did you see any loading or unloading of aircraft at Rasmark?

MR. BAKER: I'll again instruct him not to answer on the same basis.

Q (By Ms. Sheppard) Okay. Did you do any of

don't want to say the name without being sure.

(Witness consults documents.)

A This was prior to June, ma'am.

Q (By Ms. Sheppard) What was prior to June?

A Let me see here. So, after that I would say, no.

Q Okay. Now, prior to the interview of June 2nd, 1993, with Mr. Gantkessy, did you receive any kind of intelligence information pertaining to his background?

A Intelligence information?

Q Well, that's the term you used "intelligence information."

A Oh, okay.

Q Did you receive any type of intelligence information pertaining to his background?

A No, I wasn't, that I recall, doing any intelligence work on him at that time.

Q Okay. Did you -- prior to his interview of

June 2nd, of 1993, did you receive any information regarding anything about Mr. Gantkessy?

A Yes, ma'am, from the record I believe he was mentioned in an interview that I attended.

Q Okay. Now, what interview was this?

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A (Witness consults document.) It would be an interview of Chris Hines that I attended along with Agent Schroeder on March 16th, of '93.

Q Okay. And during that interview of Mr. Hines did he tell you anything regarding Mr. Gantkessy's medical condition?

A I'd have to read that, ma'am.

Q Do you have any recollection?

A If he told me about --

Q Mr. Gantkessy's --

A I don't have recollection without reading

the record.

Q Okay. Did you interview at any time prior to your June 2nd, 1993, interview any other Ford employees?

A Not that I recall.

Q Okay.

A Ford -- working for Mr. Gantkessy in other words?

Q Or working for Ford Motor Company in the same area.

A I don't -- I may have been present at some interview, but I don't recall specifically, ma'am.

Q Okay. Do you recall -- can you say whether -- do you recall who you talked to -- who else

A I remember that -- I don't know if that's the reason, but I remember there was a time when IRS was

gone and then IRS was back.

Q Okay. Since you were, like, on-the-job training, did you participate in the decertification of the Rasmark case?

A I'm sorry?

Q Since you were in on-the-job training in working with this Financial Task Force, did you participate in the OSDETF committee meeting pertaining to decertification of the Rasmark case?

A No, ma'am, I had nothing to do with OSDETF.

Q Did you ever meet the members of the OSDETF committee?

A No, ma'am, not to my knowledge. I may have, but I wouldn't have known who it was.

Q Okay. As part of your duties on the Financial Task Force, did you have any knowledge of association between Guierrmo Potillo and Rasmark?

MR. ROBINSON: Objection. That's privileged information. He can't answer

that.

MR. BAKER: Insofar as you're asking about any ongoing investigation it's my understanding he cannot testify. I'll

instruct the witness not to answer. I don't think he can even say whether there is or isn't an ongoing investigation.

Q (By Ms. Sheppard) All right. We're not asking about any ongoing investigation, I'm talking pertaining to the investigation about Rasmark and about Mark B. Rasmusson. Did you develop any information or were you given any information showing the connection between Mark Rasmusson and Guierrmo Potillo?

MR. ROBINSON: Same objection.

MR. BAKER: Based on that, I'll tell the

witness not to answer.

THE VIDEOGRAPHER: I have approximately ten minutes on this tape.

MS. SHEPPARD: Okay.

MR. BAKER: Strangely enough that's ten minutes till two hours.

Q (By Ms. Sheppard) Now, you stated earlier that you were asked to contact Mr. Salas regarding that box. And since you were in on-the-job training of this Financial Task Force, did you go and look at the contents of that box?

A That box, did I go look at the contents, no, ma'am. I was there sometime after the box, several months, a year. I don't -- I didn't look at it, no,

ma'am.

Q Okay.

A Not that I can recall, I didn't look at it. I may have seen a part of it here when it was out in the office, but not to study it.

Q Okay. Did you as part of your responsibilities in learning this Financial Task Force, did you review any documents pertaining to Mark B. Rasmusson that did an analysis of any records that they seized on November 22nd, 1993, pertaining -- that indicated that these records pertained to money laundering or drug smuggling?

A Is this pursuant after the search warrant?

Q Yes.

A Analysis records?

Q Yeah, analysis of those records that -- indicating that they might have found something pertaining to drug smuggling on money laundering?

A No. A lot of those documents I wouldn't even understand them if I saw them, ma'am. The accounting documents, things of that nature, you need to

be schooled in that, but, no, I didn't see any specific reports saying they have this.

Q Okay. Did you ever personally talk to Arturo Vargas?

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MARK B. RASMUSSON, *
ET AL *
*
VS. * CIVIL ACTION:
* EP-95-CA-475-F
LAWRENCE E. FROST, *
ET AL *

VIDEOTAPED DEPOSITION OF ERIC MILLS

January 24, 1997

Q Okay. And do you recall when Deborah Rasmusson and her son was told they could leave? Do you recall that particular part of the -- of the occasion?

A No, I don't.

Q Okay. Did you escort Ian Mae outside the Customs office when -- when Deborah Rasmusson was told to leave?

MR. ROBINSON: I'm going to object to the form of the question. I think you might be mischaracterizing the -- when Deborah Rasmusson left. You said when she was told to leave. I'm not sure that's been any -- in any prior testimony. I think she just left.

Q (By Ms. Sheppard) Did someone notify you that Deborah Rasmusson was leaving and for you to bring Ian Maye out of the room where you were?

A Yes.

Q Okay. Who told you that Deborah Rasmusson was leaving?

A I don't remember.

Q Okay. When you were told that she was leaving, do you then get up with Ian Maye and take him outside the building?

A Yes, I did.

Q Okay. And when you took him outside the building, did you leave him there outside the building or what did you do next?

A No. Ian and I stood near the front

door of the building to wait for his mother to come out.

Q Okay. So you came out the building before Deborah Rasmusson came out the building?

A Yes.

Q Do you recall the approximate time that Deborah Rasmusson came out the building?

A No, I don't.

Q Was it evening time? Was it dark?

A Was it dark. I think it was dark. Yes.

Q Okay. Now, did -- were you instructed to follow Deborah Rasmusson to the Diamond Shamrock station?

A Was I instructed, no.

Q Did you go to the Diamond Shamrock

station?

A Yes, I did.

Q What prompted you to go to the Diamond Shamrock station?

A After Deborah Rasmusson and Ian left the Customs office, I had some discussion with Special Agent Frost about things that Ian had told me. And someone discovered that they had Mrs. Rasmusson's gun. And I believe the -- the -- Mrs. Rasmusson had a -- had a box of records with her. And it was -- it was my intent to return the weapon and collect the box of records.

Q Okay. Now, on what basis were you going to collect the box of records from Deborah Rasmusson?

A Well, to ask her if we could have

the box of records, first of all.

Q Okay. And why did you want that box of records?

A During my conversations with Mrs. Rasmusson's son, he repeated over and over that all the evidence needed to convict Mark Rasmusson was in that box.

Q Okay. Now, let's look at that

statement there. You said that Ian was about 14 or 15 years old at that time?

A Yes. Yes.

Q Did he indicate to you that he had been trained in criminal law?

A No.

Q Did he indicate to you whether he had been trained in any area of law at all?

A No.

Q Why do you give so much credence to such a statement made by a 15 -- or 14 or 15 year old child?

A Because he was -- Ian was attributing that to what his mother had said.

Q Okay. Now, did Ian tell you that he personally looked in that box and reviewed those records?

A No.

Q Okay. Did you personally look in the box and review those records?

A No.

Q All right. Now, who told you to ask Deborah Rasmusson for the box?

A Who told me?

Q Yes.

as vague. Are you referring to Agent Mills, specifically, or you as in Customs? How are you defining "you".

Q (By Ms. Sheppard) From your participation on the financial task force, from the activities that you participated in, did you bring charges or did you recommend any charges be brought against Mark Rasmusson for any evidence or information that you recovered pertaining to drug smuggling or money laundering?

A No.

Q Did you, from your activities, from your participation on the financial task force, did you bring any charges or recommend any charges be brought against Mark Rasmusson

for tax evasion?

A No.

Q Did you, from your participation on the financial task force, recommend or bring any charges against Mark Rasmusson for violations of the Bank Secrecy Act?

A No.

Q Did you, from your participation on

the financial -- financial task force, bring any charges or recommend any charges be brought against Mark Rasmusson for mail fraud?

A No.

Q Okay. Did you review -- are you aware of the records that were subpoenaed by the FBI from Ford Motor Company?

A No.

Q Okay. Okay. Will you read your

report beginning at 1215 hours of this particular report dated September 16, 1992.

MR. ROBINSON: For the record, which report are we referring to? Plaintiff's Exhibit -- Plaintiff's Exhibit what?

Q (By Ms. Sheppard) 15. P-15. Beginning at 1215 hours, read through 1605 hours. That's on page three.

MR. BAKER: Ms. Sheppard, while he's reading that, let me just mention something that has come up. You go ahead and read that --

THE WITNESS: I don't know if I can do that --

MS. SHEPPARD: Well, I

don't want him doing two things at one time here.

MR. BAKER: I'll wait. Okay. Okay. If it's too complicated, I'll wait and bring it up later.

THE WITNESS: Where did you want me to stop, ma'am?

Q (By Ms. Sheppard) Read through 1605 hours.

A Okay. I've done that.

Q Okay. Now, in your report dated September 17, 1992, you just read the portion at 1215 hours. A red Mercedes bearing license plate AZHSI -- I mean HSR 995 operated by two -- I'm not sure what that stands for -- HMAs. What does that stand for?

A Hispanic male adult.

Q Okay. -- arrive at Rasmark and

both men went inside. Now, were you -- did you personally observe these two men go inside?

A I do remember seeing this vehicle. Whether that's my observation of them going

inside, I'm -- I'm uncertain.

Q Okay. So you can't said where you were? Were you in position where you could personally observe them going inside? Do you recall that from reading the report?

MR. ROBINSON: I'll object to the form of the question. Agent Mills has testified previously there were several individuals involved in the surveillance. I also object to

the extent that you're asking him to reveal a location. That's privileged. It's -- you're asking him about investigative technique and he's not authorized to answer that question.

Q (By Ms. Sheppard) Now, did the participants in the surveillance prepare separate reports?

A No, ma'am. I prepared the report.

Q Okay. And do you recall whether you were able to personally observe inside the Rasmark office at the time that you saw this red Mercedes?

MR. ROBINSON: I'll object to the form of the --

MS. SHEPPARD: I'm asking

him for his personal observation.

MR. ROBINSON: I'll retract that objection. Repeat the question, please.

Q (By Ms. Sheppard) Do you recall whether you personally observed -- was able to observe inside of Rasmark office on this particular occasion when you saw the red Mercedes?

A I couldn't see inside the office, no.

Q Okay.

THE VIDEOGRAPHER: We've got approximately ten minutes remaining on this tape.

MS. SHEPPARD: Okay. Thank you.

MR. ROBINSON: That's two hours.

Q (By Ms. Sheppard) Did you identify the individuals who were in that red Mercedes?

A According to the report, one person

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is identified.

Q Okay. How do you identify -- Hector Barrera. How do you identify him?

MR. ROBINSON: Object to the form of the question. It's vague. Please clarify it.

Q (By Ms. Sheppard) Okay. Did you identify him through the license plate on the vehicle?

MR. ROBINSON: Also, I'm going to object to the form of the question. You're referring to Agent Mills. The report doesn't

[App. 654 omitted]

indicate which of the officers that were listed on the front page made the observation. Agent Mills already testified that he observed -- he remembered seeing the red Mercedes; but you haven't established whether at that time, he was observing that red Mercedes.

Q (By Ms. Sheppard) Okay. Let me ask you this question: Were you able to personally observe into the hangar of Rasmark

on this particular occasion?

MR. ROBINSON: I'm going to object to the form of the question. Again, I think you're

trying to get at an investigative technique -- investigative technique because you're asking location. If you want to ask a specific question, did he see anything inside the hangar on this particular day, you may ask that.

Q (By Ms. Sheppard) Did you personally observe the Rasmark offices through the hangar on this particular occasion?

MR. ROBINSON: I'm going to object to the form of the question. Are you asking him to assume the officers are in the hangar?

Q (By Ms. Sheppard) Did you -- did you -- did you see inside of the hangar on this particular occasion?

MR. ROBINSON: Just for the

record, what occasion are you referring to? 1545 hours?

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MS. SHEPPARD: We're still talking -- yes. We're still talking about this same date, September 16, 1992.

MR. ROBINSON: I realize that, but there are a lot of entries on that same date. Again, there are a lot of individuals listed on the first page of this exhibit that Agent Mills has already testified did do surveillance. The information was reported to him. He wrote this report.

MS. SHEPPARD: Well, I'm asking what he personally observed.

Q (By Ms. Sheppard) Did you personally observe inside of the hangar?

A Are you talking about the part of hangar where the airplanes are normally parked or in the -- can you be more specific about --

Q Did you observe --

A -- what you mean?

Q Okay. Did you observe where the

airplanes were parked?

A Well, at this time, anyone driving by on Boeing could see any airplanes parked.

Q Okay. Did you personally observe inside the structure called the hangar where

airplanes can also be parked?

A I -- I can't say whether I saw in the hangar or not on this -- on this particular date because there's no indication in my -- in my report that there was any reason for me to look in there.

Q Okay. Now, do you recall whether on this particular occasion, whether you instructed any of your agents to go inside the building?

A No, I didn't. I did not ask anyone to go inside the building.

Q Okay. You stated that -- in your report that you identify one male. How do you know it was a Hispanic male adult?

MR. ROBINSON: Again, which entry are we referring to?

Q (By Ms. Sheppard) Where you identify Hector Barrera. 1605 hours, you

25 state that the red Mercedes, white male

100

1 driving, Hector Barrera, passenger. How were
2 you able to identify Hector Barrera?
3 MR. ROBINSON: I'm going to
4 object to the form of the
5 question. Ask him if he even
6 knows Hector Barrera. He may not
7 have made this observation.
8 Q (By Ms. Sheppard) Were you in
9 charge of the surveillance activities on this
10 particular occasion?
11 A Yes, I was.
12 Q Okay. Did any of the agents
13 participating under your direction tell you
14 that that was Hector Barrera?
15 A I don't recall how I arrived at the

name of Hector Barrera.

Q Okay. Did you identify the white male that was driving the vehicle, the red Mercedes?

A Not -- no, ma'am.

Q Okay. Now, on this particular occasion, September 16, 1992, did you observe any criminal activity pertaining to money laundering or drug smuggling at the Rasmark office?

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

MARK B. RASMUSSON, *
ET AL *
*
VS. * CIVIL ACTION:
* EP-95-CA-475-F
LAWRENCE E. FROST, *
ET AL *

VIDEOTAPED DEPOSITION OF

JOE L. ACOSTA

January 24th, 1997

members of the financial task force prior to the 6-2-93 interview. Did you participate in any of those surveillances?

MR. ROBINSON: Regarding Andrew Gantkessy?

MS. SHEPPARD: Yes.

THE WITNESS: I think I might have been out there either that -- that same morning or maybe the previous morning. But I was out at his place of business waiting for him to show up to be -- so we could talk to him.

Q (By Ms. Sheppard) Okay. Now, if the financial task force had an appointment prearranged, what was the purpose of the surveillance to -- to catch him when he --

when he arrived?

A It's my -- if I recall correctly, that appointment wasn't made until either early that afternoon or -- but it was after we had already left the premises. Because we never could find him or locate him on the premises. And we didn't want to go in. We'd rather -- we wanted to catch him away from

the -- his office so he would feel more at ease.

Q So how many agents was trying to catch him away from the office?

A If I recall, it was myself and Jim Holland, maybe Fred Schroeder. At least maybe two, three.

Q Okay. Now, did you personally try

to telephone Andrew Gantkessy to make an appointment?

A No, ma'am.

Q Okay. And why not?

A Again, we weren't the lead agency in this investigation. That was their call. That was their interview. So it was not my responsibility to.

Q Isn't it the normal procedure for FBI to call in advance and schedule appointments with witnesses that they're going to interview?

A Not necessarily. Depending on the interview.

Q Okay. Now, prior to participating in the Andrew Gantkessy interview, had you been furnished a copy of the U. S. Customs

report or told of the interview with Gail Beech on March 9th, 1993?

A I don't recall that report, no, ma,am.

Q Okay. Didn't you have access to U. S. Customs reports that were generated in this pertaining to the Rasmark investigation?

A Yes, ma'am. I just don't recall that particular one, no.

Q Okay. Did the financial task force conduct periodic briefings pertaining to the Rasmark portion of the investigation?

A Yes, ma'am. To both agencies, we would have briefings every so often to keep our supervisor apprised of what was going on?

Q Okay. Did they -- in any of these briefings, did they discuss Gail Beech?

A Not that I recall, ma'am. If I recall, we interviewed one employee. And I'm not sure if she worked for that -- the business Gail Beech or Beech Craft or -- but --

Q Here is Plaintiff's Exhibit 16 if you can --

A Sure.

Q -- scan through that and see if that would help you to recall whether Gail Beech was ever discussed during any of the briefings?

MR. ROBINSON: Ms. Sheppard, for the record, if you're going to ask questions regarding that report, I think

it's fair and I'm going to require that Agent Acosta be able to read that report before he answers questions.

Q (By Ms. Sheppard) Let me ask you this question: Did you discuss the contents of the interview that you had with Andrew Gantkessy with your supervisor, FBI supervisor?

A Yes, ma'am.

Q Okay. And what did you relate to your supervisor about that particular interview?

A Basically, Mr. Gantkessy advised us that he had received two trips to Vegas, a trip to the Super Bowl and some -- some money from Rasmark.

Q Okay. Now, do you recall that during the interview, did Andrew Gantkessy say that he won the trip from Rasmark in a raffle from Amigo Air Show that took place around that time?

A No, ma'am. I don't recall that at all.

Q Okay. Now, were you aware prior to this of 6-2-93 interview with Andrew Gantkessy, that Gail Beech alleged that Joe Sudomir and Andrew Gantkessy were engaged in a kickback scheme with Deborah Rasmusson and Rasmark and Mark Rasmusson?

A I remember that allegation, but I don't know if that was before or after Mr. Gantkessy's interview.

Q Okay. Did you ever personally

interview Gail Beech yourself?

A No, ma'am.

Q Did you do any type of follow-up investigation to obtain independent corroboration of the possible kickback scheme?

A Yes, ma'am.

Q What type of follow-up investigation did you do?

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A Actually, I had reviewed some financial documents from -- from Rasmark and one of the individuals that the checks were made out to. I had interviewed him prior to this interview. And he's the one that stated to me that he had taken these checks and cashed them because they were made out to him. He would give Deborah the money. And he

recalled Deborah telling him that the money was for Andy Gantkessy.

Q Okay. Now, who was this individual?

A Chris Hines or -- H-i-n-e-s.

Q Okay. And what financial records did you review?

A That particular documents were the Rasmark -- I think it's Bank of El Paso checking account, business account, if I remember correctly.

Q Okay. And how did you obtain those records?

A Subpoena.

Q Okay. Did FBI subpoena the El Paso Bank account? Who -- who subpoenaed the El Paso Bank account?

A I -- I don't think that bank of El Paso was one of the ones we did. I did a couple, but I don't think that was one of the them.

Q Okay. Now, which ones did you do?

A Would have been State -- State National. I don't remember what it was back then. It might have been a different name, but State National. And --

MR. ROBINSON: I need to confer with my client. Put it on the record if you'd like.

MS. SHEPPARD: Yes. Place on the record that Counsel is conferring with the witness as the witness is answering your question.

MR. ROBINSON: Are we off the record?

MS. SHEPPARD: No. No. We're not off the record.

(Whereupon, the witness and his attorney confer outside the hearing of the court reporter.)

MR. CASTILLO: While we're on the record, I'm just becoming aware of some information. And for purposes of clarification as to Mr. Webb's involvement -- and I'll direct my questions to you. Whether or not Mr. Webb was

coordinator of the HIDTA Unit at the time that any part of this -- the investigation that is the basis of this lawsuit was going on, you know.

MR. WEBB: I left the HIDTA Unit in March of 1990.

MR. CASTILLO: Okay.

MR. WEBB: So, to my knowledge, you know -- and I had no -- no knowledge of any of the details of -- I never heard of this case until --

MR. CASTILLO: You -- you have no personal knowledge as to anything that was going on?

MR. WEBB: No. None

MS. SHEPPARD: Okay. And we've -- we've used approximately five minutes here. So I want to make sure we tack this on to my time for questioning.

MR. ROBINSON: I have no objections to that.

MS. SHEPPARD: Okay. Thank you.

MR. ROBINSON: For the record -- for the record, I'd like to clarify why -- why I took a break and spoke to my client. I reminded him that he is prohibited from talking about anything to do with the grand jury. And I just wanted to make sure before he

testifies further that he's aware of that.

Q (By Ms. Sheppard) Now, you stated that you interviewed Chris Hines. Did you interview Chris Hines prior to this 6-2 interview -- '93 interview of Andrew Gantkessy?

MR. ROBINSON: If it's the

grand jury, you can't talk about it.

Q (By Ms. Sheppard) Did the interview --

THE WITNESS: Can I have a minute with him?

MS. SHEPPARD: Yes.

(Whereupon, the witness and his attorney confer outside the hearing of the court reporter.)

Q (By Ms. Sheppard) Okay. Now, the interview that you conducted with Chris Hines, was that under a grand jury subpoena?

MR. ROBINSON: Which interview are you referring to?

MS. SHEPPARD: The interview that Special Agent Acosta referred to.

MR. ROBINSON: You can answer that.

THE WITNESS: Yes, ma'am.

Q (By Ms. Sheppard) Now, what independent corroborating evidence did you

obtain after this interview with Mr. Hines to verify the information that he gave you?

MR. ROBINSON: I'm going to object to the extent that you may be inquiring about grand jury material. And if that's the case, then Agent Acosta cannot answer those questions.

Q (By Ms. Sheppard) Did you interview Joe Sudomir?

A No, ma'am.

Q Okay. Did you interview any other Ford employees pertaining to the Rasmark portion of the investigation?

A No, ma'am.

Q Okay.

A You mean besides Mr. Gantkessy?

Q Besides Chris Hines, Mr. Gantkessy.

A I don't recall Mr. Hines being a Ford employee. But, no, I didn't interview any Ford employees, other than Mr. Gantkessy.

Q Oh, okay.

Now, were the interview that was you conducted with Mr. Gantkessy, was that under a grand jury subpoena?

criminal activity?

A I don't recall what -- specifically what Mr. -- Mrs. -- Gail's -- what her allegations were, specifically. I just remember the name Joe Sudomir and Ford. But the specifics as to what they were, I don't recall right now.

Q Okay. Now, isn't it the FBI policy

to advise individuals their rights even though they are not the focus of the investigation --

MR. ROBINSON: Object --

Q (By Ms. Sheppard) When they are the focus of the investigation, even though they're not in custody, is what I wanted to say.

A I don't believe so, ma'am.

Q Okay. Now, back to this question: Andrew Gantkessy stated during the 6-2-93 interview, you or some agent played a tape recorder and asked him if he recognized the voices on the tape. Do you recall that occurring?

A No, ma'am.

Q Okay. Did you take notes during the interview of 6-2-93?

A No, ma'am. I don't recall taking any notes.

Q Okay. I'm sorry. Go ahead.

A Again, if I'm going to be doing the report, obviously I'm going to be taking notes. But I don't recall taking any notes. And if there were -- if I did take notes, they were very brief because, again, I wasn't in charge of that interview, so.

Q Well, weren't you required to make reports to your FBI supervisor?

A Yes, ma'am.

Q Didn't they require you to prepare reports?

A I would just -- yeah. I would just have taken very minimal notes. And I would have just reported whatever was on those

notes. Most of it, I just would have remembered.

Q Okay. And do you provide only verbal reports to your supervisor?

A No, ma'am. Not all the time.

Q All right. Did you prepare a 302 of the interview with Mr. Gantkessy?

A No, ma'am.

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Q Okay. Did you see any of the other agents take notes?

A I don't recall.

Q Okay. Did you see any of the agents recording the interview?

A Recording, no, ma'am.

Q Okay. Did you ask any questions of Mr. Gantkessy?

A I don't recall asking him any questions.

Q All right. Now, did Mr. Gantkessy make any type of admissions during this interview that might have constituted a violation of any kickback statute that is under the FBI jurisdiction?

A I'm not sure. I presented the results of that interview to -- to my supervisor. And he didn't feel there was enough there to -- to further investigation as far as kickbacks.

Q Okay. Now, during the 6-2-93 interview of Mr. Gantkessy, did you or any of the other agents attempt to persuade Mr. Gantkessy to cooperate in the Rasmark investigation?

A We asked him to assist us, if possible, if he was going to do so.

Q Okay. Now, were you aware prior to 6-2 interview that Mr. Gantkessy was a heart patient who had previously suffered a stroke?

A I don't think I became aware of that until after we -- we interviewed him, if I remember correctly. I don't think I was aware of it before my interview.

Q Were any type of background information obtained on Mr. Gantkessy prior to his 6-2 interview?

A Not by me, ma'am, no. Or -- I'm trying to think if anybody told me prior. There may have been, but I don't recall anybody telling me specifics about his background other than he was the manager of

the Ford warehouse out there.

Q Okay. Now during this 6-2-93 interview, did Mr. Gantkessy appear nervous or upset to you?

A A little nervous, yeah.

Q During this 6-2-93 interview, did Mr. Gantkessy ever ask to have his supervisor present?

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A I don't recall him asking, no, ma'am.

Q Okay. Now, during this 6-2 interview, did Mr. Gantkessy every ask to call his wife or his attorney?

A Definitely not his attorney. I don't recall anything about his wife.

Q Okay. During this 6-2 interview,

was Mr. Gantkessy ever told that if -- that he did not have to talk to you or the other agents if he didn't want to?

A I don't recall anybody saying that, no. I don't recall anybody telling him he didn't have to.

Q Okay.

A One -- one would assume, but I -- no, I don't remember him -- anybody specifically saying, you don't have to talk to us.

Q Okay. Was he required to talk to you and the other agents?

A No, ma'am.

Q Okay. Did you or any of the other agents ever threaten to release information about Mr. Gantkessy to his employer, Ford

Motor Company?

A No, ma'am.

Q Have you seen the -- the Customs report of that 6-2-93 interview with Mr. Gantkessy?

A I don't believe so, ma'am. I did my own little memo, so I didn't -- I don't think I ever saw the actual report that they generated.

Q Okay. Now, didn't you just say you didn't prepare a 302 on that report, an interview?

A That was a memo. Not a report. I stand corrected. It was a memo. It was not a 302, which is -- I'm assuming you're referring to a 302 as a report. It was a memo.

Q Okay. And it's your testimony that

you did not review the Customs report?

A No, ma'am. I don't recall reviewing it.

Q Why was the 6-2-93 interview terminated before it was completed?

MR. ROBINSON: I'll object to the form of the question. I don't think there has been any

testimony that it wasn't completed.

Q (By Ms. Sheppard) Well, why was it necessary to arrange a second interview with Mr. Gantkessy if you completed the interview on June 2nd, 1993?

A I believe there was some two or three points that differed from -- from my

previous interview with Mr. Hines and Mr. Gantkessy.

Q And why weren't these differences resolved at the 6-2 interview?

A I -- I don't think anybody noticed the difference until after the interview was done.

Q Okay. And what were those differences?

A May I confer?

Q Do you recall? Do you need Counsel to tell you what they were?

A No, ma'am. I need to talk to him about --

MR. ROBINSON: If -- if the reason he's hesitating is because the advisory came out of the grand

jury, he just can't talk about it.

Q (By Ms. Sheppard) Well, do you refer to this in your testimony? I mean, there's no --

MR. ROBINSON: He can't waive that. That -- he has no right. He can't. That's a criminal offense if he does. He can't.

MS. SHEPPARD: Are you threatening your client?

MR. ROBINSON: Ms. Sheppard, I'm just explaining why he can't -- he's not being an obstructionist. He just cannot answer.

Q (By Ms. Sheppard) Did you make a

note of the time -- the beginning of this interview, the 6-2 interview, when it began and when it end -- ended?

A No, ma'am.

Q Okay. Can you approximate how long the interview lasted?

MR. ROBINSON: Which interview are we talking about?

MS. SHEPPARD: Talking about the 6-2-93 interview.

Q (By Ms. Sheppard) Can you approximate how long that interview lasted?

A 30, 45 minutes, maybe.

Q Okay. How long did the interview on 6-3-93 last?

A 15, 20 minutes.

Q Okay. Now, did you call Andrew Gantkessy to ask him to come to the Customs office for this June 3rd, 1993 interview?

A I don't recall if it was either me or Fred Schroeder. I don't recall which one of us called him. I don't believe it was me, but I could be wrong.

Q Okay. But you and Fred Schroeder made the decision together to contact Mr. Gantkessy and have him come to the Customs office on June 3rd, 1993?

A Yes, ma'am.

Q Okay. And were any threats made to Mr. Gantkessy to persuade him to agree to that June 3rd, 1993 interview?

A No, ma'am. He was very cooperative.

Q Okay. Now, what -- well, you already stated -- let me ask you another question here.

On this -- at this June 3rd, 1993 interview, did you or Mr. Schroeder attempt to persuade Mr. Gantkessy to become an informant?

A No, ma'am.

Q Did -- was the subject ever discussed of getting Mr. Gantkessy to cooperate and -- and provide you with information pertaining to Rasmark or pertaining to Mark Rasmusson?

A We asked him if he wanted to provide information, but we didn't approach him as -- as a source. We asked him if he wanted to cooperate, if there's anything he can do to help us, we'd appreciate it. And he

said he would be willing to do, you know, whatever he could. That's --

Q Those are his exact words?

A Not exact words. That's more or less what he said. He didn't have a problem. He -- he didn't say, no, I don't want to help you out or anything, no ma'am.

Q Okay. Now, who was the lead

interviewer on the June 3rd, 1993 interview at -- at the Customs office?

A I don't recall who the lead -- I don't recall who it was.

Q Okay. Was the June 3rd interview recorded?

A No, ma'am.

Q Okay. Now, did you take notes of

the June 3rd interview?

MR. ROBINSON: Back up. Needs to clarify. Recorded as in audio recording or written recording?

Q (By Ms. Sheppard) Was the -- was the June 3rd interview recorded by tape, tape recording?

A No, ma'am.

Q Okay. Now, did you take any notes of the June 3rd, 1993 interview?

A I probably did, yes.

Q Okay. Did Agent Schroeder take notes?

A I don't recall.

Q All right. Now, did you prepare an FD 302 of the June 3rd interview?

A I don't recall.

Q Okay.

A I don't think there was. Thinking back, I don't think there was a 302 generated by me. I was -- I think it was just a follow-up memo.

Q Okay. Now, doesn't the FBI policy require that any interview information which might become testimony be reported on an FD 302?

MR. ROBINSON: I'm going to object to the form of the question. He's already -- it's been asked and answered. Depends on who the lead -- lead agency is who is conducting the interview.

Q (By Ms. Sheppard) Now, what --

let's see. Let me ask you, were any threats or promises made by either you or Mr. Schroeder on June 3rd to convince Mr. Gantkessy to cooperate?

A No, ma'am.

Q Did you or Mr. Schroeder ask Mr. Gantkessy to wear a wire to record conversations with Mark Rasmusson?

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A No, I don't recall that at all, no.

Q Okay. Did Agent Schroeder ask -- Schroeder ask -- ever ask Mr. Gantkessy to make a phone call to Mark Rasmusson from the Customs office so that Customs could record the telephone conversation?

A No, ma'am. I don't recall that.

Q Now, were you present during the

entire interview?

A Yes, ma'am.

Q Okay. Now, after -- after the interview with Mr. Gantkessy, did you ever hear Special Agent Frost or Special Agent Schroeder or any other officer -- well, not during the interview. Did you hear Special Agent Frost or Special Agent Schroeder or any -- or any other officer threaten to arrest Mr. Gantkessy if he refused to furnish information pertaining to Mark B. Rasmusson?

A No, ma'am.

Q Did you hear Special Agent Frost or Special Agent Schroeder threaten to furnish information to Ford if he refused to cooperate with Customs Services -- with the task force?

A No, ma'am.

Q Now, on June 2nd, you had -- the financial task force had, at least, five agents present. Why were only two agents necessary on June 3rd, 1993 to do an interview with Mr. Gantkessy?

A From what I recall correctly, there was only two or three points that needed to be cleared -- cleared up the next day.

Q Now, who made the decision to limit it to just -- to -- just to you and Special Agent Schroeder?

A It was probably Fred and myself and maybe Larry Frost might have had some input. But I think it was just Freddy and myself that decided it. We needed to clarify a couple of points.

MR. ROBINSON: And I

want -- for the record, I want to clarify. I think thinking back on the testimony, it wasn't a conscious decision on the numbers that showed up at the June 2nd interview. The officers just happened to be there in the area. I'm not sure one person directed

everyone to show up. It just happened. That's my recollection of the testimony.

Q (By Ms. Sheppard) Well, we can refer to the record and see what the testimony was.

Now, in -- Special Agent's Frost affidavit for the search warrant dated

November 19, 1993, Special Agent Frost stated that he received an FBI report written by you regarding information you received from a confidential source known as FBI 1. Were you the case agent assigned to FBI 1 in December of 1991?

MR. ROBINSON: I'm going to object to any questions regrading confidential informants.

Q (By Ms. Sheppard) Did you send a report to Special Agent Frost on -- dated June 3rd -- was it June 3rd? Let me make sure I got the date right. -- or June 7th. June 7th, 1993.

MR. ROBINSON: What report?

Q (By Ms. Sheppard) Did you -- did you send a report to Special Agent Frost dated

June 7, 1993?

MR. ROBINSON: Again, if it pertains to a report of a confidential informant, he can't answer that.

Q (By Ms. Sheppard) Did you interview any witnesses who had personal knowledge of Mark B. Rasmusson engaging in any criminal activity pertaining to money laundering or drug smuggling activities during 1991 -- during December 1991?

MR. ROBINSON: Pardon me? Is that -- Ms. Sheppard, is that including or excluding informants?

MS. SHEPPARD: I said witnesses. I didn't say informants.

record, the time frame is '91, if I understand your question correctly.

MS. SHEPPARD: I'm not asking the witness to reveal the informant's name.

MR. ROBINSON: Right. I'm not --

MS. SHEPPARD: I'm asking the witness to reveal the substance of the interviewer. That's -- that is not confidential information.

MR. ROBINSON: I beg your pardon? It is.

MS. SHEPPARD: It's in the affidavit. I mean, any privilege

of confidentiality has been waived once it's been placed in the affidavit. Affidavit is unsealed. Matter of record.

MR. ROBINSON: He -- whatever is in that affidavit, he can testify to. Anything outside of that, he cannot.

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MS. SHEPPARD: Okay. Well --

MR. ROBINSON: He hasn't waived any confidential --

MS. SHEPPARD: Well, let's go to what's in the affidavit.

MR. ROBINSON: That's fine.

MS. SHEPPARD: In Frost's affidavit, he states --

MR. ROBINSON: Do you want to show him a copy of that?

MS. SHEPPARD: I have received --

MR. BAKER: What page?

MR. ROBINSON: What page?

MS. SHEPPARD: It's on page 7 of the affidavit. It's paragraph 25 according to the numbering of the paragraph by the plaintiffs.

MR. BAKER: Page same for which? The residence or the --

MS. SHEPPARD: Leo Collins. And you can have a copy of that.

THE

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WITNESS: Which paragraph?

MS. SHEPPARD: Paragraph 25. Here is the other part.

Q (By Ms. Sheppard) Now, paragraph 25, it states, I have received a written report from Federal Bureau Investigation, the FBI Special Agent Joe Acosta. This report is dated June 7, 1993. Did you send special agent a report dated June 7, 1993?

A Yes, ma'am.

Q Okay. This report details an interview conducted with an individual who is referred to as a reliable, confidential informant. I've been told by Special Agent Acosta that the confidential informant that provided information contained in this report had close ties to and was criminally involved with the high ranking members of the Jesus Flores control substance trafficking organization during the years that Flores was

active. Did you interview this informant and did he give you this information at the time that it occurred?

MR. BAKER: At the time it occurred?

Q (By Ms. Sheppard) During -- did you interview -- did you interview this informant in June of 1993 or did you interview this informant in 1990 or prior to the Jesus Flores criminal trial?

MR. ROBINSON: I'm going -- I need to object to the form of the question. It's vague. I don't understand it.

Q (By Ms. Sheppard) Well, let me ask you this: How do you -- did you interview this informant or did someone give you the

information from the informant? Did you have a first-hand interview, a personal interview with the informant?

MR. ROBINSON: Anything that's outside what's in here written about the confidential informant, he can not testify to.

Q (By Ms. Sheppard) Did you take any steps to -- to obtain independent corroboration of any information that this informant provided you that you provided Special Agent Frost in this report dated June 7, 1993?

MR. ROBINSON: Again, Ms. Sheppard, it says, his reliable confidential informant. He cannot testify to anything else regarding

that informant, other than what's in this report.

MS. SHEPPARD: I'm asking him what he did as far as his investigative duties.

Q (By Ms. Sheppard) Did you do any follow-up investigation? Did you do any independent -- obtain any independent corroborating evidence of the information given to you by this informant?

MR. ROBINSON: What information are you referring to? What's written in the affidavit?

MS. SHEPPARD: The information that is contained in this affidavit.

Q (By Ms. Sheppard) Did you do any follow-up investigation?

MR. ROBINSON: Ms.

Sheppard, again, I'm going to have to object to form of the question

because it's vague. I don't understand what you're asking.

Q (By Ms. Sheppard) I'm asking Agent Acosta, did you do any type of follow up -- after you received this information from the informant -- when did you receive the information from the informant? Let me ask you that first.

MR. ROBINSON: I'm still going to object to the form of the question. You asked him to reveal confidential information.

MS. SHEPPARD: The date that he received the report?

MR. ROBINSON: That's

right.

Q (By Ms. Sheppard) Okay. Now, after you received the report, did you do any type of follow-up investigation to see if what he said was true?

A Can I have a moment with him?

(Whereupon, the witness and his attorney confer outside the hearing of the court reporter beginning at approximately 2:17

p.m. and ending at approximately 2:20 p.m.)

Q (By Ms. Sheppard) Special Agent Acosta, you understand that you are under oath and sworn to tell the truth and that any information you give that later is found to be inaccurate, that you're committing perjury?

A Yes, ma'am.

Q Okay.

MR. BAKER: I think that's a misstatement of the law. If he makes a mistake, he's committing perjury? I think it's a willful intentional falsehood is what perjury is in this state.

MS. SHEPPARD: Well, if you make -- let me rephrase it. If you make a willful misstatement or a false statement.

THE WITNESS: Yes. False statement.

Q (By Ms. Sheppard) You understand --

A Yes, ma'am.

Q Okay.

MR. ROBINSON: And as his attorney, he's aware of that. I have the right, if there's a question, a legal question about what he's going to testify to, I can confer with him. I don't tell him what to say. I just want to make sure he doesn't violate any -- in this particular case, any grand jury information. So that's why we're taking the breaks.

MS. SHEPPARD: Well, the witness is testifying and we're having almost constant interruption on -- on every question.

Counsel could have briefed him prior to the deposition about grand jury information.

MR. ROBINSON: That is my job. That's true.

Q (By Ms. Sheppard) Let's go back to this report of June 7, 1993. Did you do any follow-up investigation pertaining to any

information in this report relating to Mark B. Rasmusson or Rasmark?

A Myself on that information provided, no, ma'am.

Q Okay. And did you obtain this information --

A Sorry. Sorry. Go ahead.

Q Then, when you first obtained this information, did you go to your supervisor

with this information?

MR. ROBINSON: What information are we referring to?

Q (By Ms. Sheppard) Referring to the information about the informant saying that he has close ties to and was criminally involved with the high ranking members of the Jesus Flores controlled substance and trafficking organization during the years that Flores was active. Did you take this information to your supervisor?

A Okay. I need to clarify something. There is -- there is -- that information regarding Jesse Flores, that information was not obtained by me. That was obtained by another agent. Okay. What he did

to corroborate that, I don't know, ma'am.

Q Okay. Who was this other agent?

A It would have been Bill May. William May.

Q Okay. Did William May tell you when he obtained this information from this informant?

MR. ROBINSON: Anything to do with what was contained in the report and when it was obtained, what's in it, anything that's outside what's stated on page 7 in that paragraph -- I think you have marked 25 -- that involves information derived from a confidential informant, he cannot testify about that.

And I'll object to any question that you ask. And if he recognizes that information, he

cannot testify.

Q (By Ms. Sheppard) Let me ask you this question: Did William May participate in the investigation, the financial task force investigation, with you? Was he your partner

in the -- as far as the FBI was concerned on the financial task force investigation pertaining to Mark Rasmusson?

A No, ma'am.

Q Okay. Now, Special Agent Frost says in his affidavit, the FBI confidential source stated Jesus Flores and Arturo Bermudez were introduced to Mark Rasmusson by Pete Seaverns in 1988. Is this still part of the information that William May gave to you?

A Yes, ma'am. All that information regarding Jesse Flores would have been

obtained by Agent May.

Q Okay. And did you do any kind of follow-up investigation to obtain independent corroboration any of this information that you received from William May?

A No, ma'am. Mr. May -- Agent May assured me that the sources were very reliable, had been a long-term source with him and provided him very reliable and credible information. And I took his word for it.

Q Okay. And on the report -- Frost's affidavit states that on November the 3rd, 1993, I received a written report from the

FBI, Special Agent Joe Acosta. This report will provide information from an FBI confidential source. This source is referred

to in this report as FBI 1.

Did you send a report to Special Agent Frost dated November 3rd, 1993?

A Yes, ma'am.

Q Now, was that report prepared by you or was that prepared by another FBI agent?

A No. It was prepared by me.

Q Okay. And did you personally interview the person referred to as FBI 1?

A Yes, ma'am.

Q Did you do any type of follow-up investigation to obtain independent corroboration on any information that was given to you by FBI 1?

A On the information that's in this affidavit?

Q Yes.

A No, ma'am. This source had already proven to me to be credible and reliable prior

to providing this information.

Q Well, I'm talking about in regard to whether the contraband that he -- that the

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FBI and he or she says were in the house. Did you take any steps to bring charges, to -- to get a search warrant, to try and take some type of legal action?

A Too much time had passed. And any attempt to identify or corroborate this, would have tended to identify my source. Therefore, I didn't go any further.

Q Okay. So when did the incident occur that -- what -- what time frame? You said too much time passed. You state -- Frost states in his affidavit that the FBI stated that during December 1991 he or she was inside the Rasmusson residence.

Now, when did your interview with FBI 1 occur?

MR. ROBINSON: I'm going to object to the form of the question. Any information that would lead to the identity of a confidential informant, he cannot testify to.

Q (By Ms. Sheppard) Now, FBI -- according to Frost's affidavit, FBI 1 also reported that during February 1992, he or she

had seen three or four storage boxes underneath Deborah Rasmusson's bed and in Deborah Rasmusson's closet.

Now, did you do any type of follow-up investigation to obtain these records?

MR. ROBINSON: If it's grand jury, you can't.

THE WITNESS: I can't answer that. Grand jury.

Q (By Ms. Sheppard) Okay. When you say "grand jury", was the entire portion of the Rasmusson investigation a grand jury investigation?

MR. ROBINSON: Objection to the form of the question. That's privileged information. He cannot talk about that.

Q (By Ms. Sheppard) Did you do any type of independent corroboration of any activities on your portion of the investigation? Did you do any type of independent corroboration on any information that you obtained from -- from number one and from the Andrew Gantkessy interview? Did you

do any type of independent corroboration to verify any information that came out of that interview?

A Grand jury, ma'am.

Q Okay. Did you do any kind of -- did you obtain any type of information that led you to believe that Mark Rasmusson had committed a criminal offense pertaining to money laundering or drug smuggling?

MR. ROBINSON: Object to the form of the question. It's vague, overly broad and not specific enough for him to answer.

MS. SHEPPARD: Well, if I ask him specific, you object and say it's grand jury. Let's see if I can find one that --

MR. ROBINSON: That's an appropriate objection.

MS. SHEPPARD: -- let's see if I can find where it's not grand jury.

Q (By Ms. Sheppard) Did you -- prior to your -- beginning your portion of the financial force investigation, did your review

the DEA case file pertaining to the criminal trial that DEA brought against Mark Rasmusson in 1990?

MR. ROBINSON: I'm going to object to the form of the question. The first part, you said prior to him doing his part in the financial task force investigation. I didn't

understand the question.

Q (By Ms. Sheppard) Okay. Let me rephrase the question.

Were you aware of the fact that DEA brought a criminal case against Mark B. Rasmusson in 1990 and Mark B. Rasmusson was acquitted of those -- of the charge?

A Yes, ma'am.

Q Okay. Now, as a result of knowing that information, when you were assigned to the financial task force to work on the Rasmark portion of the case, did you go -- in turn, review the DEA case files to find out any information you could pertaining to Mark B. Rasmusson?

MR. ROBINSON: Object to

MR. ROBINSON: Fine. He just cannot testify about anything derived from a confidential informant.

THE WITNESS: Give me a moment. I'm trying to think back that far.

MR. ROBINSON: And for the

the form of the question. You haven't laid a foundation on when Agent Acosta became aware of that information regarding the Jesus Flores case.

Q (By Ms. Sheppard) When did you become aware of that information pertaining to Jesus Flores' organization in the criminal

trial?

A It would have been early part of '92, I guess. January to March. Sometime in that area. I don't know if it was the initial conference we had or if it was a short time thereafter or something.

Q Okay. Now, did you personally go and -- to DEA and review the case files pertaining to the Jesus Flores organization and Mark -- Mark B. Rasmusson?

A No, ma'am.

Q Did you personally interview any of the El Paso police officers who participated in the Jesus Flores investigation and Mark Rasmusson?

A No, ma'am.

Q Did you personally interview any of

the D -- DPS, Department of Public Safety, officers who participated in the Jesus Flores investigation and criminal trial pertaining to also or -- trial of Mark Rasmusson?

A No, ma'am.

Q Did you interview the IRS agents who participated in the criminal investigation of Jesus Flores and Mark Rasmusson in 1990?

A No, ma'am.

Q Okay. Did you check the FAA aircraft registry records pertaining to the -- of the Rasmark aircraft?

A No, ma'am.

Q Now, were -- did you request the FBI in Michigan to subpoena the records from Ford Motor Company pertaining to Rasmark?

MR. ROBINSON: If it's grand jury, you can't talk about it.

Q (By Ms. Sheppard) Well, I believe it's in your -- in your declaration. It's an administrative subpoena. It's certainly not grand jury. Let me give you a copy of that.

MS. SHEPPARD: And make this Exhibit Number -- Plaintiff's

Exhibit 18.

(Whereupon, Deposition Exhibit No. P-18 was marked for identification.)

MR. ROBINSON: Let me confer with my client one more

time.

MS. SHEPPARD: Okay. Well, as long as it's understood that Counsel is conferring with the witness again and leaving the conference room. Plaintiff reserves the right to add the time. I know we may have 15 minutes, 20 minutes by now.

(Whereupon, the witness and his attorney confer outside the hearing of the court reporter from approximately 2:33 p.m. to approximately 2:35 p.m.)

MR. ROBINSON: Again, for the record, just conferred with my client to make sure he doesn't

violate any grand jury material.

You can ask questions about that Exhibit P-18.

Q (By Ms. Sheppard) Okay. Now, regarding the FBI administrative subpoena, which was served on Ford Corporation headquarters on January 28th, 1993, what was the investigative purpose of obtaining Ford's shipping records for cargo shipped through Rasmark Jet Charter, Inc.?

A Basically, the purpose was to see what type of business -- what the volume of business that Rasmark was doing with Ford. And, basically, just to see what type of money was being generated through Ford.

Q Okay. Now, the administrative subpoena was served by FBI Agent Patrick

Bresnahan. Did you have any conversation or communication with -- with Mr. Bresnahan prior to 1-28-93?

MR. ROBINSON: I'll object to the form of question. You haven't laid a foundation whether he spoke to Agent Bresnahan or whatever his name is.

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THE WITNESS: Bruce -- I don't know what his name is.

Q (By Ms. Sheppard) Okay. Did you -- did you know the person who was going to serve the administrative subpoena?

A I don't believe I knew who he was until after it was served, if I remember correctly.

Q Okay. All right. Now, did you send a transmittal to the FBI office in Michigan to have this subpoena served?

A It was just a -- just -- just a request on paper that it be served. But it wasn't generated from our office. It was from the Detroit-office. They generated the subpoena. It was just a paper -- just a request from our office to their office that this be done.

Q Okay. Now, when did you receive the records from Ford Motor Company?

A Don't recall the date. Probably two months, three months later, if I remember correctly.

Q Okay. Now, did Special Agent Frost request that the FBI subpoena those records

from Ford Motor Company?

A I don't think he requested it. It was just something I asked him or I told him we could do. And he says fine.

Q What particular charge were you investigating at the time -- let me ask it this way: Was there a particular charge under the FBI investigative authority that you were looking into at the time when you requested those records from Ford?

MR. ROBINSON: For the record, there has been lots of testimony that this was a money laundering financial task force.

MS. SHEPPARD: Well, I'd like to hear it from the witness.

Q (By Ms. Sheppard) What -- what was

the FBI's position on this?

A It would have been relating to money laundering.

Q Okay. Now, was anyone -- or are you aware -- or were you aware at that time that anyone -- that someone from the Customs office in El Paso was sent to present the subpoena to Ford or to be present when the

subpoena was served?

A The subpoena. The administrative subpoena?

Q Yes.

A From -- somebody from Customs?

Q Yes. From the El Paso office.

A No, ma'am. It's my understanding FBI Agent Patrick Bresnahan, he's the one that

did serve the subpoena by himself. I'm not aware of any Customs personnel being present when it was served.

Q Okay. Are you aware of any Customs personnel participating in helping Ford to understand the subpoena and gathering up documents and so forth?

MR. ROBINSON: I'm going to object to the form of the question as vague and --

Q (By Ms. Sheppard) Are you aware -- oh, I'm sorry.

MR. ROBINSON: I'm sorry.

Q (By Ms. Sheppard) Are you aware of any Customs personnel assisting Ford in complying with the subpoena?

A With this subpoena?

Q Yes.

A No, ma'am.

Q Now, did you personally receive those records from Ford Motor Company?

A Yes, ma'am.

Q Did you review those records?

A Briefly. Not -- not -- I wasn't really familiar with the invoicing part of it, so I think I made copies and I provided a copy to Customs who were more familiar with that type of billing and so on.

Q Okay. Now, did you have those records analyzed by an FBI lab that deals with analysis of documents to -- to determine whether anything in those documents pertain to drug smuggling or money laundering activities?

A No, ma'am.

Q Did you have to review those records to do an analysis to see whether it pertained to -- anything in those records pertained to tax evasion?

MR. ROBINSON: Object to the form of the question. Did he have who?

Q (By Ms. Sheppard) Did you have the

FBI lab or the appropriate FBI lab that does document analysis to check those records to see if anything in those records pertained to tax evasion?

MR. ROBINSON: Object to the form of the question. It's been asked and answered. I believe his testimony is that he

copied those records, gave those records to the Customs Service and they did any analysis, if any.

Correct me if that misstated your testimony.

THE WITNESS: That's correct.

Q (By Ms. Sheppard) Okay. Let me make sure because I hadn't asked that question. Did you -- did the FBI perform any kind of analysis on these documents to -- for FBI purposes?

A No, ma'am. Other than a quick review by me, that was it. No other personnel.

Q Okay.

A I just looked at them and just

tried to get an idea what kind of volume, what kind of money was being generated. And then I made a copy and provided Customs with it.

Q Okay. Now, what was your reason, again, for sending that subpoena to get those records?

A Again, I was trying to get a figure -- or a feel for how much volume, how much business was being generated through Rasmark.

Q But at the time that you subpoenaed those records, you didn't have the expertise to make that determination. Is that what you're testifying to?

A What I said was Customs -- Customs is more familiar with invoicing and so on because it relates to air -- you know,

airplanes and that type of stuff and cargo and so on. That's why I gave it to them.

Plus, they were doing most of the analysis on the documents anyway, so.

Q Why didn't Customs subpoena the records?

A You would have to ask them, ma'am. I just offered to and they said sure.

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Q Okay. Okay. Now, can you explain how the money paid by Ford Motor Company to Rasmark was related to money laundering?

A Again, I'll restate it. I wanted to see what volume of business was being generated by Rasmark through Ford.

Q Okay. Now, how was that related to money laundering?

A Well, if I know how much money is actually legitimately being generated by Rasmark, then I can try to corroborate -- corroborate through other -- other means to see if there is a big difference in numbers.

Q Okay. And did you cooperate -- corroborate whether there was a big difference between the numbers?

A No. Not on the invoices, no ma'am.

Q Did you ever see those records again after you gave them to U. S. Customs office?

A No, ma'am.

Q Did anyone from IRS ever analyze those records that you obtained from Ford before you gave them to Customs service?

A Not that I recall, ma'am.

Q Now, from your participation on the financial task force, are you aware whether IRS did any analysis of those records?

A Not that I'm aware of, ma'am.

Q Okay. Now, during the time that you served on the financial -- you were assigned to the financial task force, did you ever meet with any of the officials from Ford Motor Company?

A No, ma'am.

Q Okay. Are you aware of any other member of the financial task force meeting with officials from Ford Motor Company?

A I don't know if there was actual meeting person to person. I think there was some telephone calls being made between Larry Frost and some people at Ford, but I don't

think it was relating to my stuff.

Q Okay. Can you recall an approximate time frame when these conversations might have occurred?

A I think it was during latter part of '93, early part of '94, maybe. I think it was latter part of '93, if I remember correct.

Q Now, during the portion of the

Rasmark investigation that you conducted, that you carried out, did you uncover any factual evidence that led you to believe that Mark Rasmusson was participating in money laundering or drug smuggling activities?

MR. ROBINSON: I'm going to object to the form of the question. You said factual

evidence. It's a misleading, compound question. If you ask any facts, that's an appropriate question.

Q (By Ms. Sheppard) Okay. Did you uncover any facts that led you to believe that Mark Rasmusson was participating in drug smuggling or money laundering activities?

A No, ma'am.

Q Did you uncover any facts that Deborah Rasmusson was participating in money laundering or drug smuggling activities?

A No, ma'am.

Q Did you uncover any facts that Mark Rasmusson was participating in tax evasion offenses?

A Well, I'm not an expert in that area; but not that I'm aware of, no, ma'am.

Q Did you uncover any facts that you referred to IRS?

A No, ma'am.

Q Did you uncover any facts indicating that Mark Rasmusson was engaging in mail fraud?

A No, ma'am.

Q Did you uncover any facts that led you to believe that Mark Rasmusson was engaging in violations of the Bank Secrecy Act?

A No, ma'am.

Q Did you uncover any facts to -- to show that Deborah Rasmusson engaged in any tax evasion or facts that you felt that you needed

to refer to IRS?

A No, ma'am.

Q Did you uncover any facts that Andrew Gantkessy engaged in tax evasion?

A No, ma'am.

Q Did you uncover any facts that indicated or led you to believe that Deborah Rasmusson are engaged in violations of the

Bank Secrecy Act?

A No, ma'am.

Q Did you uncover any facts that led you to believe that Andrew Gantkessy engaged in violations of the Bank Secrecy Act?

A No, ma'am.

Q Did you uncover any facts that led you to believe that Andrew Gantkessy was

engaged in drug smuggling or money laundering activities?

A No, ma'am.

Q Did you uncover any facts that led you to believe that Andrew Gantkessy were engaged in kickback schemes with Mark B. Rasmusson or Deborah Rasmusson?

MR. ROBINSON: Other than Andrew Gantkessy's testimony during his interview?

MS. SHEPPARD: Well, let the witness testify.

THE WITNESS: Okay. As far as kickbacks, obviously, the United States Attorney had to make the call on that, Assistant United States Attorney. I don't recall

you do a follow-up investigation with Ford Motor Company to find out exactly how they -- how do they approve charters?

A No, ma'am. I believe Customs may have; but I never did, no, ma'am.

Q Okay. And did you refer this information -- these facts you just related to U. S. Attorney's office for prosecution -- for a prosecutive opinion?

A Yes, ma'am.

Q And -- and you referred that information without getting any kind of independent corroborating evidence of the information that you -- that you just related, the facts that you just related?

MR. ROBINSON: I'm going to object to the form of the

question. I think you're trying to mislead the witness. When someone admits to doing something illegal, I'm not sure the law requires corroborating evidence.

Q (By Ms. Sheppard) Exactly what did Mr. Gantkessy say? What did he say that was illegal?

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A Well, that was -- that was the whole issue with the United States attorneys was: Did he actually have the authority to determine who got the -- the charters from Rasmark. And I could never get him to give me a yes or no. He was very vague -- well, I do but I don't. And, so, without him actually saying I do and, yes, I can determine who gets

a charter and, yes, I get money for it in return, short of that, I couldn't do anything with it.

Q So, you were going to make the whole case off of Mr. Gantkessy's word. Do you -- is that the way the case was going to be made?

A No, ma'am. I simply did the interview and I presented it to the United States Attorney. Here is -- I interviewed this individual. Here is what he told me. Here is the other information that I have.

And he said, well, I'm sorry, I don't think there is enough there to prosecute.

I said, well, that's fine. I just needed to present the facts as I've found them

so far and if you haven't -- if you don't want to continue, that's fine.

Q Okay. Well, did you -- did the U. S. attorney's office suggest to you to go interview some Ford employees and find out exactly how the process works?

MR. ROBINSON: Object to the form of the question. It's irrelevant to the issues of qualified immunity in this case.

Q (By Ms. Sheppard) Did you do any kind of independent corroboration of the information that you got from Mr. Gantkessy?

A Grand jury, ma'am.

Q Okay. Let me ask you this question: Did you or the financial task force call Ford to get permission to interview Mr.

Gantkessy on June 2nd, 1993?

A I didn't, ma'am, no.

Q Okay. And do you -- are you -- do you know whether any member of the task force called Ford to get permission to interview Mr. Gantkessy on June 2nd, 1993?

MR. ROBINSON: I'm going to object to the form of the

question. I think you're trying to mislead Agent Acosta. Are you asking him to assume that permission is required?

Q (By Ms. Sheppard) Are you aware of any -- Special Agent Frost or any other member of the task force calling Ford Motor Company

to -- to get permission or to notify them that they are going to interview one of their employees?

A I don't recall who -- who called Ford or if anybody called Ford to set up the interview. All I know is Mr. Gantkessy agreed to be interviewed. I don't know who -- who even made the call. So I don't know if anybody in the task force made a call to Ford. When I say "Ford", I mean Ford back in Detroit.

Q Okay. Now, you stated that Mr. Gantkessy agreed to cooperate with the financial task force. What did he agree to do for the financial task force?

A My -- what I recall was if he heard of anything that was illegal or anything like that, he would let us know. When I said

cooperate, that's my understanding, if you hear anything, if they do anything illegal or anything like that, just let us know.

Q Okay. Okay. Do you recall an occasion in -- probably in late 1993, in December 1993, where you called Deborah Rasmusson to follow up on some information obtained from the November 22nd, 1993 seizure of records from Rasmark? Do you recall calling up Deborah Rasmusson and requesting that she come in to talk to you?

A No, ma'am.

Q Okay. Do you recall Deborah Rasmusson -- interviewing Deborah Rasmusson regarding possible wire tapping by her husband, Mark Rasmusson?

A I didn't interview Deborah. I

interviewed her daughter.

Q Okay.

A She was present during the interview and so was her attorney. Deborah and her daughter's attorney was present during the interview; but I didn't actually interview Deborah, per se. She was just there.

Q You didn't ask Deborah Rasmusson

any questions?

A No. I think the purpose of the interview was to see what her daughter knew about the alleged wire tap.

Q And what did she know about this alleged wire tapping?

A She was able to identify her voice and another voice, another juvenile's voice

that was on the tape. That's basically it.

Q Okay. Now, were any charges brought pertaining to wire tapping against Mr. Rasmusson or anyone else that you thought was involved?

A No, ma'am.

Q Why not?

A United States attorney advised me that due to the fact that it was -- it was going through a messy divorce, he didn't think it was prosecuting merit.

Q Okay. And how was this wire tapping done?

A What I was told by a witness was that there was a recorder at Mark's house that would actually automatically start recording whenever a phone call was received at

Deborah's house.

Q Okay. The recorder was located at Mark's house, Mark Rasmusson's house. Which house are we speaking of? What was the location of that house?

A Something Douglas.

Q Dale Douglas?

A Dale Douglas, right.

Q Okay. And Mr. Rasmusson and Mrs. Rasmusson were still married. Isn't that correct?

A I think they were separated. I don't think they were divorced yet.

Q Okay.

A They were living apart.

Q Okay. And it was your belief that you -- you had a wire tapping case based on

Mr. Rasmusson recording telephone calls from his house on Leo Collins?

A Based on what the people I interviewed told me, I presented it to the U. S. AG and he just didn't feel comfortable due to the fact they were going through a divorce. And he wasn't sure, also, because -- I guess technically he was still a subscriber

on that phone that Deborah had at her residence. So there was that issue, so he said it just -- it wasn't something he wanted to proceed with.

Q Okay. And at that time that you took this information to the U. S. Attorney's office, was Mark B. Rasmusson still listed has the owner of the home on Leo Collins?

A I believe so, ma'am.

Q Okay. Is there any law saying you cannot record your own telephone conversations?

A Not that I'm aware of, ma'am.

THE VIDEOGRAPHER: I have approximately 15 minutes on this tape.

MS. SHEPPARD: Is that time counted from the original time?

THE VIDEOGRAPHER: That's just on the tape.

MS. SHEPPARD: Oh, on the tape. Okay, then, because --

MR. ROBINSON: You've got about 25 minutes.

MS. SHEPPARD: Yeah. Okay.

When you said 25 minutes, you're counting from what -- from what point? An additional 25 minutes?

MR. BAKER: Well, we were scheduled to go until 10 after and so we're figuring another 15 minutes past that.

MR. ROBINSON: So 3:20.

MS. SHEPPARD: Probably like 20 minutes past that. I mean, y'all took quite a few conferences. I think it's more like 20 minutes.

MR. ROBINSON: Well, let's -- let's agree on a quitting time now.

MS. SHEPPARD: Well, are you going to have any more conferences?

MR. ROBINSON: It depends -- it depends on your questions.

MS. SHEPPARD: Okay. Well, let's not -- let's not make a decision on that. We know we've

got at least 20 minutes coming after 3:10. Then we'll see where we are -- I may be through before then.

MR. ROBINSON: Well, assuming that there are no more conferences, let's set a time now for the -- your two hours. Is

3:20 fair enough?

MS. SHEPPARD: Well, no. Let's see. We counted from -- 3:10 would be the normal time when it ends. And, then, 20 minutes from that would make it around 3 -- 3:35.

MR. ROBINSON: Okay. We'll stop at 3:35.

MR. CASTILLO: 3:30.

MR. BAKER: 3:3O.

MR. ROBINSON: 3:30.

MR. BAKER: Plus 10 is 30.

MS. SHEPPARD: Oh, well, like I say, it was quite -- it was quite a few -- quite a few conferences and so -- you know.

MR. BAKER: I think 3:30 is fair.

MS. SHEPPARD: Well, I think -- well, we'll see. We'll see how it goes. I may get through before then -- barring any more conferences, we can get through this.

Q (By Ms. Sheppard) Okay. Let me ask you this question: Are you aware of a letter sent to Ford Motor Company by Special Agent Frost -- or was signed by special agent in charge, Michael Lappe but it was drafted by Special Agent Frost? Are you aware of that letter, July 26, 1993?

A No, ma'am.

Q Okay. So you've never seen the

letter or heard of the letter and didn't participate in drafting the letter?

A No, ma'am.

Q Okay. Special Agent Frost did not discuss the letter with you?

A I don't recall him saying anything about a letter to Ford.

Q Okay. All right. Thank you.

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Did you participate in any of the activities pertaining to surveillance of the aircraft or approaching the aircraft of Rasmark on any occasions --

MR. ROBINSON: I'm going to object --

Q (By Ms. Sheppard) -- during the

Rasmark investigation?

MR. ROBINSON: Object to the form of the question. It's compound. You mentioned surveillances or approaching the aircraft.

Q (By Ms. Sheppard) Well, let's take one at a time.

Did you participate in any portion of the investigation where you physically went to Rasmark aircraft with other agents?

A Yes, ma'am.

Q Okay. Can you give me the time frame on when that occasion occurred?

A Where is my affidavit? I put it in my affidavit. June 1st of '93.

Q Okay. Now, what was the purpose of that occasion of approaching the Rasmark

aircraft?

A Again, this was an action initiated by Customs. I was a task force member and they asked for my assistance. The specification as to why it was stopped, I don't recall the specifics, ma'am.

Q Okay. Do you recall what your duties were? What were you assigned to do on that particular occasion?

A I was merely to stay on the top of it and just make sure everything was okay.

Q I mean, what were you expecting to happen?

A Nothing. I was just there to assist in whatever they needed me to do.

Q Okay. Were -- was there any discussion by the task force to -- to search

the aircraft?

A I don't recall anybody saying about a search.

Q Okay. Did you participate in any interviews of a pilot on that particular occasion?

A No, ma'am. I didn't -- I talked to the pilot but that was later that afternoon

and it was in an interview.

Q Okay. Who did you talk to?

A I can't remember his name. The pilot. I think that probably that Mr. Frost and Mr. Schroeder talked to that -- that morning.

Q Okay. What did you say to this pilot?

A All he wanted to know is: Should I continue working for Rasmark? I said, "That's your call. I'm not here -- I can't tell you who to work for." I guess he was just concerned. And I told him --

Q Did he -- did he say why he was concerned about working for Rasmark?

A No. I guess just stopped that morning, I guess, scared him. I'm not sure. That's all he wanted to know is: Should I continue? I said, "That's your call. I can't tell you who to work for."

Q Okay. What did Special Agent Frost tell this pilot that morning when he stopped the pilot at Rasmark?

A It was pretty loud. I just remember he asked him to cut off the engines.

And they started talking. I wasn't close enough to hear what they were saying.

Q Okay. Did Special Agent Frost tell you what he said?

MR. ROBINSON: Object to the form of the question. Who is "he"? Agent Frost or the pilot? It's a vague question.

Q (By Ms. Sheppard) Did Special Agent Frost tell what the pilot said -- what he said to the pilot, what Special Agent Frost said to the pilot?

A No. All I remember about the conversation was he was just taxiing the plane. And I don't even know if we knew where he was headed or if he was headed anywhere. I think he was just taxiing the plane for

maintenance purposes or something. I'm not real sure. But he didn't tell me verbatim, this is what he said, no.

Q Okay. And at the time that you saw this aircraft taxiing, was it -- did you observe any criminal violations? Did the -- were the aircraft -- was the pilot doing something with the aircraft that he didn't

supposed to do -- that he didn't supposed to do?

A I'm not a Customs agent. But as far as him doing anything, I didn't see anything.

Q Okay. Now, were there any other occasions like the June 1st occasion where you and other agents approached a Rasmark

aircraft?

A Not me. That was the only time I approached one.

Q Okay. Did you ever participate in any search of a Rasmark aircraft?

A No, ma'am.

Q Did you ever meet with any agents, special agents from Corona, California, pertaining to the Rasmark case?

A No, ma'am.

Q Have you heard the name, during any of the financial task force briefings, Pamela Harrington? Special Agent Pamela -- Pamela Harrington? Have you heard that name?

A I don't recall that name, no.

Q Okay. Did you do any type of investigation pertaining to a company known as

Next Flight, Inc.?

A All I know about Next Flight is it was a company that Deborah and David Chavez, they were the owners of it. It ran out of -- from what I understand, it was run out of the same place that Rasmark was. But as far as investigation, no.

Q Okay. Did the financial task force during any -- any of its briefings, tell you that they obtained information about Next Flight indicating that it was involved in some type of criminal activity relating to drug smuggling or money laundering?

A No, ma'am. Not that I recall, no.

THE VIDEOGRAPHER: Could I take this opportunity to switch

tapes?

MS. SHEPPARD: Yes.

THE VIDEOGRAPHER: This is the end -- this is the end of tape one. We're off the record at 3:07 p.m.

(Short Recess.)

THE VIDEOGRAPHER: This is tape two in the continuation of the deposition of Joe Acosta. We're on the record at 3:10 p.m.

Q (By Ms. Sheppard) Okay. We're back on the record.

Let me go back to this

administrative subpoena that was served by FBI. Since that subpoena was served on Ford and since it was the FBI administrative subpoena, did you feel that it was necessary for anyone involved in the Rasmark investigation to meet with Ford official -- officials and explain the detail of the investigation?

MR. ROBINSON: I'm going to have to object to the form of the question to the extent that may be asking him to reveal investigative technique.

Q (By Ms. Sheppard) Did you feel it was necessary that any task force members assist Ford in complying with this administrative subpoena?

A With the administrative subpoena?
Q Yes.
A No, ma'am.
Q Did Ford ever contact FBI and request a clarification of the documents that were requested in that subpoena?
MR. ROBINSON: Object to the form of the question. It's overly broad. Agent Acosta may not have information about whether anyone with the FBI. You can ask him whether he was ever contacted or if he knows if anyone was contacted, that -- he can answer that question.
Q (By Ms. Sheppard) Okay. Let's -- let's go with that question.
Did anyone from Ford Motor Company contact you and request for clarification of

the documents that -- that were requested in the administrative subpoena?

A No, ma'am.

Q Are you aware of Ford Motor Company contacting any other FBI agent for a clarification?

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A Not that I'm aware of, ma'am.

Q Okay. Are you aware of Ford Motor Company contacting any member of the financial task force for clarification of the FBI subpoena?

A No, ma'am.

Q Now, did you participate in the execution of the search warrant on November 22nd, 1993?

A Yes, ma'am.

Q What were your duties on November 22nd, 1993?

A Okay. My primary duty was to video record the condition of the house before the search -- when it was conducted. The search was conducted and then after the search was conducted.

Q Okay. Now, have you had any special training in taking video pictures of a search, execution of a search warrant?

A No, ma'am. Obviously not. If you reviewed the video, obviously not.

Q Well, thank you.

A You thought you were seeing things.

MS. SHEPPARD: No further

questions on that. Thank you very

much.

Q (By Ms. Sheppard) Let me ask you this question: At any time you were participating on the Rasmark portion of this, quote, larger investigation, did you ever go to your FBI supervisor and complain that you didn't want to be on that case any more?

A No, ma'am. Complain, no.

Q Did you ever go to your supervisor and say that you didn't see any reason to continue the investigation on the Rasmark portion of that larger investigation?

A No. I think I pretty much was certain all the way until it was decertified that -- to continue looking. But I didn't complain that, no, I want out or anything like that.

Q Exactly what were you looking for?

A Same violations I said earlier.

Money laundering, bank places.

Q Now, did the FBI support decertifying the Rasmark portion of the case?

MR. ROBINSON: Object to the form of the question. Totally

irrelevant to the issues of qualified immunity in this case.

MS. SHEPPARD: No. It goes to the issue of whether there was anything to investigate at all. That's very relevant to qualified immunity.

MR. ROBINSON: You asked whether -- the FBI's position.

MS. SHEPPARD: Well --

MR. ROBINSON: Restate the

question.

Q (By Ms. Sheppard) Let me restate the question. Did you, Joe Acosta, recommend decertification of the Rasmark portion of the case?

A Yeah. I agreed with it.

Q Okay. At any time --

MR. ROBINSON: Just for clarification, the question was recommend, not concur.

THE WITNESS: Oh, no. I concurred. Obviously, I can't recommend much. I'm just an agent.

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Q (By Ms. Sheppard) Well, did you concur in the decertification of the Rasmark

portion of the case?

A Yes, ma'am.

Q Okay. At any time during the time that you were participating on the financial task force pertaining to the Rasmark portion of the investigation, did you ever go to any of the Customs supervisors and express any concerns about continuing the Rasmark portion of the investigation?

A No, ma'am.

Q Okay. Did -- regarding that administrative subpoena, did you receive all the records that you requested from Ford?

A From the subpoena, yes, ma'am. Mr. -- yes, ma'am.

Q And did you ever discuss decertifying the Rasmark portion of the investigation with your supervisor, with your FBI supervisor?

A No, ma'am. Again, we were not the lead agency. We were there until -- until they needed us. If that was one year, two years, three years, then they had the call.

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Q So let me ask you this question: In your opinion -- this is your personal opinion -- if you see a case not uncovering any evidence, would you continue to investigate?

MR. ROBINSON: Object to the form of the question. Are you referring to this case as any evidence or are you giving him a hypothetical?

Q (By Ms. Sheppard) Well, let's say

you continue with this case. Since you were not uncovering any information that the U. S. Attorney's office felt it could bring any type of indictment against Mark B. Rasmusson, why did you believe you needed to continue the investigation?

MR. ROBINSON: I'm going to object to the form of the question to the extent it's misleading. The prosecutorial discretion of the U. S. Attorney's office has nothing to do with whether evidence -- evidence of criminal activity actually occurs and is

contribute. I wasn't there when the box was obtained.

Q Okay. Did you go with Agent Frost to the magistrate to present that affidavit?

A No, ma'am.

Q Did you review the contents of the box after the box was opened?

A Yes, ma'am.

Q And did you -- did you refer any facts or information to U. S. Attorney for further -- for any type of charges as a result of your review of documents in that box?

A No, ma'am.

Q Did you see anything in that box, other than normal business records?

As far as I could tell, you know. But, again, I'm not familiar with the air charter service. Based on what I know, no, ma'am, there was nothing that I saw in there.

Q When you say nothing you saw in there, you saw --

A Just normal business records.

Q Do you know who took the photograph of the Rasmusson residence on the occasion of the execution of the search warrant?

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

MARK B. RASMUSSON,	*	
ET AL	*	
	*	
VS.	*	CIVIL ACTION:
	*	EP-95-CA-475-F
LAWRENCE E. FROST,	*	
ET AL	*	

VIDEOTAPED DEPOSITION OF

DONALD REAY

January 24th, 1997

the investigative activity within the office of the special agent in charge in El Paso. And it was a direct responsibility for the investigative activity of the El Paso office itself as opposed to the five outlying offices that also fall under the special agent in charge, El Paso.

Q Okay. And you said there is five outlying offices?

A Yes, ma'am. They're referred to as RAC offices, Resident Agent in Charge offices.

Q I see. And where are they located?

A They're located in Presidio, Texas; Alpine, Texas; Las Cruces, New Mexico; Deming, Mexico; and Albuquerque, New Mexico.

Q Okay. Now, was there a meeting held pertaining to the Rasmark portion of the

investigation in Alpine, Texas?

A I don't recall one.

Q Okay. Now, your declaration also operations from July 1992 until June 1993 and, again, from January 1994 until June 1996.

What were your specific duties and responsibilities as ASAC for field operations?

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A I was responsible for -- as a second line supervisor for each of the Resident Agent in Charge offices that I just mentioned. In addition, I served as the Customs representative as the vice chairman of the executive committee of the High Intensity Drug Trafficking Area partnership in New Mexico. In addition to that, I served as the Customs representative and the chairman of the

working group of the HIDTA partnership in West Texas. In addition to that, I was responsible for two different organized crime drug enforcements task force areas because New Mexico answered to one core city and West Texas answered to another core city.

Q Okay. Now, in your duties as ASAC, were you responsible for supervising the currency group supervisor or who -- let me -- let's -- let me back up and ask this question: My understanding it was a financial group. Is that the same as the currency group?

A Yes. The -- the terminology changed and time and group structure within an individual office changed. One of the special agents in charge was known for his

changeability in personnel and group names. So those names could be used interchangeably.

Q Okay. So, now, when we refer to the financial task force, we're speaking of task force under the supervision of the -- either the financial group or the currency group, whichever name was being used at the time?

A Yes, ma'am.

Q Okay. So we can use the currency group and financial group interchangeably?

A Yes.

Q Okay. Now, is the -- well, let me ask you this: What -- what was the duties of the currency group?

A Well, the currency group had a multifaceted approach. They dealt with

financial investigations that were purely Customs in orientation. Those that were joint investigations with other entities fell under the financial task force.

And the financial task force was also supervised by that currency or financial group supervisor.

Q Okay. Now, who was the currency

financial supervisor?

A At what time, ma'am?

Q At the time that you became part of the El Paso office.

A At the time I came to El Paso, I believe that was Robert Fisher.

Q Okay. And who succeeded Robert Fisher?

A I'm not positive who -- who was

right after Mr. Fisher.

Q Okay. During the period of time that the financial task force were investigating the Rasmark part of the larger investigation, who was the supervisor of the currency group at that time?

A During the early part of that investigation, it was group supervisor Michael Wilczewski.

Q Okay. And so you were supervising Mike Wilczewski, then; is that correct?

A Yes, ma'am.

Q Okay. And then what period of time did you supervise Mr. Wilczewski?

A Well, I supervised Mr. Wilczewski I from July of 1990 to July of 1992 and, then,

again from June 1993 until January 1994 when I

was his first line supervisor during those periods of time.

Q Okay. And what were you doing in between those periods of time?

A I was supervising the Resident Agent in Charge offices as the ASAC force field operations.

Q I see. Okay. And the currency group was not under that section --

A No, ma'am.

Q -- under fields -- field operations?

A No, ma'am. Each of those offices, if they had a currency -- a lot of those offices are one-group offices. So they did not have a currency group, per se. They would rely on the El Paso currency group for resource and expertise if they needed it.

Q I see.

A But I did not supervise that local El Paso group.

Q Okay. Now, what's the difference between a task force and an operation? For example, in your declaration, you stated some

information regarding Operation Transwestern. What's the difference between a task force investigation and operation?

MR. ROBINSON: I'm going to object to the form of the question to the extent it may require him to reveal investigative techniques or procedures.

Q (By Ms. Sheppard) Without revealing any specific investigative

technique, can you give me a general idea what's the difference between a task force and an operation? Is the task force incorporated under an operation or is an operation incorporated under the task force?

A There could be several operations under one task force. An operation is a specialized approach and it could be done in a number of different ways. One of those being an undercover. Another would be to target a particular area, another would be to work on a -- where there cases of special funding where they might work a certain area for a period of time. That could be an operation.

Q Okay.

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A A task force and an operation could

be one agency or it could be multi agency. A task force, on the other hand, is always multi agency to take the advantage of the force multiplier effect and multi agency talents.

Q Oh, okay. Thank you.

Now, since you were the supervisor of Mike Wilczewski who, during the time of financial task force investigations pertaining to Rasmark, then that meant you were also the -- you had oversight over the financial task force yourself?

A For part of the time, I was in ASAC, yes, ma'am.

Q Okay. When was the financial task force formed?

A It was funded -- formed with a -- with the HIDTA money, when the partnerships went in. And I -- my best recollection is it should be finishing their third year of

operation, I believe. So that would have been mid '94, I guess.

And it was called a task force when groups were working together prior to that, but I was relating it to the HIDTA -- HIDTA

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funding. And I guess it started a little before that, as I think about it. I really can't tell you an exact date it started.

Q Okay. When was Mark Rasmusson and Rasmark first targeted U. S. Customs for investigation?

MR. ROBINSON: I'm going to object to the form of the question. It's irrelevant to the issues of qualified immunity.

Additionally, to the extent

it reveals investigative techniques or procedures, Mr. Reay cannot answer that question.

Q (By Ms. Sheppard) Let me ask you this question: Did you assign Special Agent John Peterson to investigate Rasmark?

A No, ma'am.

Q Did you assign John Peterson to investigate Mark B. Rasmusson or Deborah Rasmusson?

A No, ma'am.

Q Were you aware at the time that you took over the ASAC for the financial task force that John Peterson had conducted a

A I remember talking about them participating in the task force. I had

forgotten that they had actually assigned somebody. If Senior Special Agent Frost says that they did, then I'm sure they were there because he knew the players that were there everyday.

Q Okay.

A I wasn't at that site everyday.

Q Okay. What percentage of your time did you spend with the financial task force as it relates to the Rasmark of the investigation?

A A very small percentage of my time. My -- my duties were very vast.

Q Okay. Now, were you working in the Customs office on May 23rd, 1992?

A Yes, ma'am.

Q Was that your regular duty hours or -- on May 23rd, 1992?

A No, ma'am.

Q Do you recall what time you arrived at the Customs office?

A It was in the evening hours. I don't recall an exact time.

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Q Were you called by Special Agent Frost to come to the Customs office on that particular date on May 23rd, 1992?

A I think it was Special Agent Frost who advised me that -- that there was going to be some events that might be of benefit to the service, yes.

Q Okay. Did he tell you what kind of benefits that Customs Service could anticipate?

A As I recall, he had received a telephone call and he had been advised that

Deborah Rasmusson was in fear of her life from her husband and she was wanting to have some protection. We saw that as an opportunity that if she wanted to become a witness for the Government, we protect witnesses. We -- we don't protect private citizens. That's not our normal function.

However, for somebody who became a witness in one of our cases, then that person, we could protect. And in light of that opportunity or potential opportunity we went to the office so that -- so Ms. Rasmusson could be interviewed.

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Q Okay. Now, how do you protect witnesses in a case?

MR. BAKER: Object to the

form of the question. You're asking for privileged information.

Q (By Ms. Sheppard) Well, did you explain to Deborah Rasmusson how -- what kind of protection that U. S. Customs Service could offer her?

A I didn't talk to Deborah Rasmusson, so, no, I did not explain that to her.

Q Did you instruct Special Agent Frost to explain to her what type of protection she could expect from Customs Service if she became a witness for U. S. Customs Service?

A I would not have had to instruct Mr. Frost in that. He is a competent senior special agent who would have known those procedures.

Q Okay. Do you know whether he gave

her instructions on what she could expect if she became a witness for U. S. Customs Service?

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A I did not hear him say so, but I have every confidence that he did so.

Q Okay. Now, where were you located in the office at the time that Deborah Rasmusson and her son arrived?

A I was in my office.

Q And your office in relationship to the door that -- Deborah Rasmusson came in, where was it located?

A Down a hall approximately 35 feet maybe. 35, 40 feet.

Q From your office, were you able to see when Deborah Rasmusson and her son entered

the building?

A No. Not from in my office.

Q From your office, were you able to see what room Deborah Rasmusson and her son were taken to?

A Not from my office, no.

Q Okay. Now, do you know who the other agents were that came with Special Agent Frost?

A I remember some of the other agents who were there that night. I'm not sure I would recall all of them.

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And Group Wilczewski was on the telephone trying to tell the fire department that it was not an emergency so that they would not endanger anybody. And I went to the

control panel to see if I could possibly shut down the fire alarm.

Q Okay. Now, how long did all this take you?

A Quite frankly, ma'am, it seemed like an eternity. It was loud in that building. I would have to give it a wild, wild guess of saying maybe 45 minutes to an hour. And that's -- and that's a guess because I really wasn't looking at my watch at that time.

Q Okay. Now, during this period of time that you were working on this fire alarm situation, was Deborah Rasmusson allowed to leave the Customs building?

A Yes. She left.

Q Okay. Now, you stated that Michael Wilczewski contacted the El Paso Fire Department?

A I believe it was Michael that made the call. I know he was on the phone with

66

them for part of the time.

Q Okay. Now, on May 23rd, 1992 during this interview with Deborah Rasmusson, did you see her drink any alcoholic beverages?

A No, ma'am.

Q Were you aware of the fact that Special Agent Frost provided her with alcoholic beverages on May 23rd, 1992?

A Not on that night.

Q Okay. The building that Customs Services is located in is that under the auspices of GSA, General Service Administration?

A GSA does do the renting, yes.

Q Okay. Is there a policy against bringing alcoholic beverages on the premises there?

A Yes, there is.

Q Okay. At the time that you met Deborah Rasmusson, did she appear to be high on a controlled substance?

A Very well could have been. I would describe her as very spacy.

Q Okay. Now, at what point did you learn -- at what point did you learn that

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Special Agent Frost presented a consent to search form to Deborah Rasmusson?

A I don't know the exact time.

Q Was it shortly after she arrived there or shortly before she left?

A Well, I didn't learn about it until after she was gone.

Q Okay. What is the Customs policy on giving alcoholic beverages to witnesses in the Customs office?

A There is no policy.

Q Well, is it permitted?

A It's not permitted, it's -- yes, it is permitted. It's not something that is written or denied to or not to do.

Q Okay. Do you permit your agents to give witnesses in Customs office alcoholic beverages?

A I don't recommend it. There are circumstances when I can see where it has happened over my extended 26-year career.

Q Well, the question is: Do you permit it?

A Do I personally permit it?

25 Q Yes.

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1 A No, ma'am.
2 Q Now, as a supervisor, would you
3 consider it to be appropriate to give alcohol
4 to a witness that you were interviewing?
5 A It would depend entirely upon the
6 circumstances. Generally not.
7 Q Well, as a supervisor, would you
8 approve your special agent giving alcohol to a
9 witness who the agent would like to sign some
10 type of consent form?
11 A No. Certainly not. If it was
12 going to be a factor in it, of course not.
13 Q Okay. Now, at the time that you
14 were tending to the fire alarm situation, you
15 and Michael Wilczewski, where was Agent --

Special Agent Frost?

A I learned later that he was down at the Shamrock station.

Q Okay. So he was not with you at the time you were attending to the fire alarm; is that correct?

A No, ma'am.

Q Okay. Did you go to the -- well, let me ask you this. Who told you he was down there at the Diamond Shamrock station?

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as an OCDETF case.

That does not mean that the case did not have merit. It meant that it was a decision made by management from an administrative standpoint to decertify as an -- from the OCDETF farina.

Q Okay. Now, who were the officials above you that made that decision?

MR. ROBINSON: Object to the form of the question. It's irrelevant to the issue of qualified immunity.

Q (By Ms. Sheppard) Now, from the time that you spent as ASAC -- ASAC on the financial task force, were any criminal charges brought on behalf of the financial task force or Customs Service against Mark B. Rasmusson pertaining to either drug smuggling or money laundering activities?

MR. ROBINSON: Object to the form of the question. The U. S. Attorney's office brings charges against potential defendants.

Q (By Ms. Sheppard) All right.

During the time that you were the ASAC, did you submit to the U. S. Attorney's office any information pertaining to Mark B. Rasmusson indicating that he was engaging in drug smuggling or money laundering activities?

A While I was the ASAC for El Paso operations, I do not recall any.

Q Now, as a result of the financial task force investigation, the Custom Service investigation, Operation Transwestern investigation, however you look at it, was Mark B. Rasmusson ever indicted for drug smuggling money laundering activity or violations?

A During the course of the financial investigation?

Q Yes.

A No, ma'am.
Q During the course of the time it was adopted under Operation Transwestern?
A No, ma'am.
Q Now, during the time of John Peterson's investigation, was Mark Rasmusson indicted or charged with any offenses pertaining to drug smuggling or money

laundering?
MR. ROBINSON: Objection. Form of the question. It's a compound question. There is a difference between being indicted and charged.
Q (By Ms. Sheppard) Well, let's take indictment. Was he indicted?

A Not to my knowledge.
Q Was he charged?
A Not to my knowledge.
Q Okay. Now, to your knowledge, was Mark B. Rasmusson ever charged with tax evasion -- tax evasion as a result of the financial task force investigation?
A Not to my knowledge.
Q As a result of Operation Transwestern?
A Definitely not through the Operation Transwestern.
Q Okay. Now, as a result of John Peterson's investigation, was Mark Rasmusson charged with tax evasion?
A Not to my knowledge.
Q Was Deborah Rasmusson charged with

tax evasion?

A Not to my knowledge.

Q As a result of the Customs investigation, the financial task force investigation, was Deborah Rasmusson ever charged with drug smuggling or money laundering activities?

A Not to my knowledge. I don't believe so.

Q Was Andrew Gantkessy ever charged with drug smuggling or money laundering activities?

A Not to my knowledge.

Q Now, as a result of the Customs investigation, the task force investigation, Operation Transwestern, was Mark B. Rasmusson ever charged with violations of the Bank

Secrecy Act?

A Not to my knowledge.

Q Was he charged with violations -- or with mail fraud violations?

A Not to my knowledge.

Q Was he charged with kickback -- violation of kickback statutes?

A Not to my knowledge.

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Q Was Deborah Rasmusson ever charged with violations of the Bank Secrecy Act?

A Not to my knowledge.

Q Was she ever charged with mail fraud?

A Not to my knowledge.

Q Was she ever charged with

violations of the kickback statutes?

A Not to my knowledge.

Q Was Andrew Gantkessy ever charged with violations of the Bank Secrecy Act?

A Not to my knowledge.

Q Was he ever charged with tax evasion?

A Not to my knowledge.

Q Was he charged with mail fraud?

A Not to my knowledge.

Q Was he ever charged with violations of kickback statutes?

A Not to my knowledge.

Q Okay.

MS. SHEPPARD: I have no further questions.

THE VIDEOGRAPHER: This is the end of tape one. We're off

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

MARK B. RASMUSSON, *
ET AL *
*
VS. * CIVIL ACTION:
* EP-95-CA-475-F
LAWRENCE E. FROST, *
ET AL *

VIDEOTAPED DEPOSITION OF

MICHAEL WILCZEWSKI

January 31, 1997

Q Are you ill today or are you taking any medication, drug or other substance that might affect your ability to testify accurately here today?

A No, ma'am.

Q At any point during this deposition, if you feel ill or for any other reason are unable to testify accurately, please tell me immediately and we shall take a recess. Is there any reason at all why you cannot testify accurately here today?

A No, ma'am.

Q Okay. Do you have any questions about what I've just told you or about this deposition?

A No, ma'am.

Q Okay. Now, how long have you been

employed with the U. S. Customs Service?

A Almost 19 years.

Q Okay. And have you been -- have you spent that entire 19 years in El Paso, Texas?

A No, ma'am.

Q Okay. How long have you been in El Paso, Texas?

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A I believe I came to El Paso, Texas in March of 1986.

Q Okay. Now when you were first hired by Customs, U. S. Customs Service or, perhaps, subsequent to your initial training, do you take an oath of office?

A Yes, ma'am.

Q Okay. And in this oath of office,

do you swear to you uphold the Constitution of the United States?

A I believe so, ma'am.

Q Okay. Now, is this oath given to all of the Customs agents?

A I believe it's given to all Federal employees, yes, ma'am.

Q Okay. And do you receive a copy of the Customs special agents handbook as part of your training and reference material?

A I believe I did, yes, ma'am.

Q All right. Now, when did you first become a Customs group supervisor?

A I believe it was 1989 -- or 19 -- excuse me, ma'am. Yes. 1989.

Q 1989?

A I believe so.

Q Okay. And were you an Officer of Enforcement at the time?

A I believe that's what it was called at that time.

Q Okay. And now it's called Office of Investigation?

A Yes, ma'am.

Q Okay. Now, prior to your assignment on the -- as group supervisor of the financial task force, were you group supervisor of a particular type of unit or task force at the time in 1989?

A In 1989, I believe I was the fraud group supervisor.

Q Okay. Now, when did you receive your assignment to become the group supervisor for the financial task force?

A I believe it was February of 1992. And it wasn't the supervisor of the financial task force. It was the supervisor of the financial group and it had a slash, conspiracy investigations group.

Q Okay.

A It was wasn't just solely that.

Q Now, did -- was the financial task

force formed under the financial group?

A Yes, ma'am.

Q Okay. Now, prior to your making assignments to other Customs agents, did you review any of the DA case files pertaining to the Jesus Flores investigation in which Mark Rasmusson was indicted and acquitted on charges?

MR. ROBINSON: Ms. Sheppard, just for clarification of the record, prior to Agent Wilczewski making assignments -- assignments to what?

Q (By Ms. Sheppard) Prior to making assignments to the financial task force, did you review the DA case file pertaining to the Jesus Flores organization and the criminal trial in which Mark B. Rasmusson was tried and acquitted?

A No, ma'am, I didn't.

Q Okay. All right. Is it your testimony you didn't review any of the DA case files the DA6s, Reports of Investigation?

A Yes, ma'am.

MS. SHEPPARD: Well, the information is already a matter of public record. It's not -- the information wasn't redacted off the box.

MR. ROBINSON: He can neither confirm or deny those questions you asked about the case number and the name of the big case.

Q (By Ms. Sheppard) Was there a connection between Mark B. Rasmusson and this larger investigation?

A There was a connection between Mark B. Rasmusson or Rasmark and a larger investigation.

Q Well, what was that connection?

A I believe there were -- I'm not quite sure right now exactly what the connection was. And I'd be guessing if I -- if I tried to -- to answer that question.

Q Frost's affidavit said that Mark B. Rasmusson was part of a conspiracy. Was he part of conspiracy with an individual by the name of Arturo -- Guerrmo Portillo?

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A I'm not sure. I wouldn't know for sure if that were the case, ma'am.

Q Okay. Did you review any reports pertaining to the financial task force investigation of Mr. Rasmusson and Rasmark?

A Yes, I did, ma'am.

Q Okay. And did those reports reveal

who are the -- who the financial task force were saying that Mark B. Rasmusson was in a conspiracy with? Someone. Did it tell you who?

A I don't recall exactly, ma'am.

Q Okay. Now, at the time that you were assigned to the Rasmark portion of this larger money laundering investigation, what was this name of the superior officer in Customs that assigned you to the case?

A I was never assigned to the case.

Q You were assigned to the financial task force. Who was the superior officer that assigned you to the financial task force?

MR. ROBINSON: I'll object to the form of the question. It misrepresents prior testimony.

Q (By Ms. Sheppard) Let me ask you

this question: Who was your immediate supervisor at the time that you served as a group supervisor on the financial task force?

A For a period of time, I'm sure it was assistant special agent in charge Donald Reay. And I believe for a period of time, it would have been assistant special agent in charge, Ronald Smith.

Q And who is the present special agent in charge?

A Currently, the special agent in charge is George McNinney.

Q And who was the special agent in charge at the time you were the group supervisor of the financial task force?

A The special agent in charge at that time was Michael T. Lappe.

Q Okay. Now, at the time that you were assigned to the financial task force as a group supervisor, was John Hensley the Assistant Commissioner of Customs for Enforcement?

A I believe for a portion of the time, he was. I'm not sure for the total time he was.

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Q Okay. Now, was John Hensley the immediate supervisor of the special agent in charge, Michael Lappe?

A I'm not perfectly clear, but I believe he was.

Q Okay. Is John Hensley still with U. S. Customs Service?

A I'm not sure.

Q Okay. Do you know what his exact title was during the period of time you was the -- you were the group supervisor for the financial task force?

A I believe his title was Assistant Commissioner Office of Enforcement.

Q Okay. Now, did John Hensley report directly to Carol Hallet when she was the Commissioner of Customs?

MR. ROBINSON: If you know.

THE WITNESS: I -- I -- I think so. I would think so. I'm not sure.

Q (By Ms. Sheppard) Let me -- I'm sorry.

A That's from Washington, D.C. I

A I'm probably sure I did, yes, ma'am.

Q Okay. And did you have any questions -- did you question them about the -- the results of those surveillance activities?

A I would have seen the results from the surveillance activities in the reports that were written about them.

Q Did those results raise any concerns in your mind about the -- the advisability or the -- the need to continue those surveillance activities?

A No, ma'am.

Q Okay. At any of these briefings that you attended pertaining to surveillance activities, were the surveillance activities

of Rasmark aircraft ever discussed?

A Could you repeat that, please.

Q Okay. At any of the meetings, the briefings, that you attended pertaining to surveillance activities, were the surveillance activities pertaining to Rasmark aircraft ever discussed?

A I'm not sure. They might have

been. I'm not sure.

Q Okay. Now, did you participate in the planning of the search warrant that Special Agent Frost put together for the Rasmark office on -- let's look at the May 23rd -- the Rasmark office on November 22nd, 1993. Did you participate in the preparation of that search warrant or the affidavit to

that search warrant?

A I reviewed them, yes, ma'am.

Q Okay. Did you participate in the planning of how the search was going to be carried out?

A I believe I did, yes, ma'am.

Q Did you participate in the planning on how the search was going to be carried out at both the residence and at the office, the Rasmark office?

A To some extent, yes, ma'am.

Q Okay. Were you aware of the fact that Rasmark aircraft was intercepted by Customs agents at Dallas Love Field in June 1993?

A No, ma'am. I -- I don't recall that.

Q Okay. Did you ever receive any reports pertaining to that interception in June 1993?

A I never received any reports.

Q Okay. Let's see. Did you know the district director, Mike Mack, M-a-c-k? And he was district director at El Paso in 1989.

A Yes, ma'am.

Q Okay. Did you have any occasions to review the district director case files pertaining to the compliance history of Rasmark Jet Charter, Inc.?

A I don't recall reviewing any case file at the district director's office.

Q Did you instruct any of the members of the financial task force to review the compliance history of Rasmark Jet Charter,

Inc. that -- contained in the district director's case files?

A No, I don't believe I did.

Q Okay. Do you know an individual by the name of William Nowak, N-o-w-a-k? He was the director of inspection and control division for Customs in the office of district director in El Paso in 1989.

A Yes, ma'am.

Q Okay. Did you have any occasions to review any of his case files pertaining to compliance activities of Rasmark Jet Charter, Inc.?

A I don't recall ever seeing any of his files on Rasmark Jet Charter, Inc.

Q Okay. Now, did you have any

discussions with Mr. Mack pertaining to Rasmark Jet Charter, Inc.?

A I don't recall any discussions with Mr. Mack about Rasmark Jet Charter, Inc.

Q Okay. Did you have any discussions with Mr. Nowak pertaining to Rasmark Jet Charter, Inc.?

A Not that I can recall, no, ma'am.

Q Are you aware of the fact that in 1989, that Mark B. Rasmusson and other pilots had a meeting with Customs Service pertaining to the treatment they received from Customs agents in the manner in the way they searched the airplanes and the manner of the way they intercepted the airplanes? Do you -- were you aware of any complaints?

A No, ma'am.

approximate -- you don't have to give me an exact date -- when this training took place?

A I don't know the exact date. It was a short time after the task force was formulated that they were given extensive training in all aspects of money laundering investigations.

Q Okay. Now, did this training include drug smuggling, as well?

A I don't believe so, ma'am. No.

Q Did this training include tax evasion, how to gather facts and how to recognize and gather facts pertaining to tax evasion?

MR. ROBINSON: Ms. Sheppard, again, are you referring to the training he personally gave

or other employees?

MS. SHEPPARD: I'm only talking about him in his position as group supervisor.

MR. ROBINSON: That's what I'm getting at. Are you -- his training he actually personally conducted or at his request,

another employee conducted for the group?

Q (By Ms. Sheppard) Well, under -- under your group -- under your position as group supervisor, did you personally provide training or did you instruct anyone else to provide training under your supervision?

A I obtained training opportunities

from different instructors on different elements of the investigation.

Q Okay. Now, was that training obtained prior to March of 1992 or was that training given by -- or given to financial task force members prior to March 1992 --

A No, ma'am.

Q -- pertaining to the drug smuggling and money laundering?

A No, ma'am.

Q Was it given prior to March 1992 pertaining to violations of the Bank Secrecy Act?

A No, ma'am.

Q Was it given pertaining to -- prior to 1992 pertaining to tax evasion?

MR. ROBINSON: I'm going to

object to the form of the question. Again, are you asking training that he personally gave? Are you talking about his personal involvement or did he ask someone else to provide training?

Q (By Ms. Sheppard) Let me ask you this question: Prior to the May 23rd, 1992 incident concerning Deborah Rasmusson, did you provide any type of inservice training, either you personally or did you instruct anyone else to provide inservice training, to the financial task force or to any Customs agents on how to develop potential witnesses who is a spouse of the target of the investigation?

A Could you read the time frame and the --

Q Prior to May 23rd, 1992 --
A Prior to May 23rd --
Q -- 1992, did you, yourself, provide training or did you instruct anyone else to provide training to members of the task force pertaining to how to develop a potential witness who is a spouse of a target of the investigation?

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A Training specific as you worded it --
Q Yes.
A -- I don't believe so.
MR. ROBINSON: Is that the incident -- are you talking about the box -- the box incident?

MS. SHEPPARD: I said prior to that May 23rd, 1992.

MR. ROBINSON: Okay. Repeat the question one more time time so we're clear.

Q (By Ms. Sheppard) Okay. Prior to May 23rd, 1992 incident -- are you familiar with the May 23rd, 1992 incident concerning Deborah Rasmusson? Let me ask you that first.

A I'm guessing you're talking about the -- the box?

Q Yes.

A And her coming to the offices of investigations?

Q Yes.

A That occasion, yes, ma'am, I remember it not by date but by --

Q The events?

supervision provide any type of inservice training pertaining to use of off duty local police officers as informants? This is subsequent. After the events of May 23rd, 1992.

A Use of off duty officers as informants?

Q Yes. Off duty local police officers as informants.

A No, ma'am.

Q. Okay. Now, after the May 23rd, 1992 incident, did that raise any questions in your mind about how the Customs agents carried out their seizure of that box from Deborah Rasmusson and her son, Ian Maye?

A Can you say that again?

Q Okay. After the May 23rd, 1992

incident, did that raise any question in your mind about the way the financial task force members carried out that warrantless seizure of the box from Deborah Rasmusson and her son?

MR. ROBINSON: I'm going to object to the form of the question to the extent that you're -- it's a vague question. Ask it one more

time. Ask him for -- ask the question again. I'm sorry.

Q (By Ms. Sheppard) After the events of the May 23rd, 1992 seizure -- the warrantless seizure of the box from Deborah Rasmusson and her son, did that raise any questions in your mind about the type of procedures that were used by the financial

task force members to get that box?

A No, ma'am. It was lawful and correct.

Q Okay. Now, you're aware of the fact that Deborah Rasmusson was given beer at the time she was in the Customs office during the interview with Customs Agent Frost; isn't that correct?

A That's what was said in the depositions, yes, ma'am.

Q Okay. Now, did you discipline any of the financial task force members for giving beer to Deborah Rasmusson during an interview in the Customs office?

MR. ROBINSON: Objection to the form of the question. It's irrelevant to the issues of

qualified immunity.

Q (By Ms. Sheppard) Would you -- did you instruct Special Agent Frost or any members of the financial task force to provide alcoholic beverages to Deborah Rasmusson during the interview of May 23rd, 1992?

A No, ma'am.

Q And after learning that the beer was provided, did you take any type of disciplinary action against any members of the financial task force for having provided that beer?

MR. ROBINSON: Objection. Form of the question. It's irrelevant to the issues of qualified immunity. And it's been asked and objected to previously.

Q (By Ms. Sheppard) Let me ask you this question: Prior to Special Agent Frost preparing his affidavit for the November 22nd, 1993 search warrant, did you conduct any type of inservice training -- you or anyone under your supervision -- to the financial task force pertaining to the use of stale and uncorroborating information in an affidavit

for a search warrant?

A Could you clarify what search warrant you're talking about now.

Q I'm speaking of the two search warrant affidavits that Special Agent Frost prepared --

MR. BAKER: For the

residence and the business?

Q (By Ms. Sheppard) Right. November 19, 1993.

Prior to the preparation of those two search warrants, did you or anyone under your supervision conduct any type of inservice training pertaining to the use of stale and uncorroborating information in affidavits?

A I don't believe so, ma'am. No.

Q Okay. Now what agencies were assigned full-time to the financial task force?

A The United States Customs Service, the El Paso Sheriff's Department, the El Paso Police Department.

Q Okay. Now, what agents participated in the task force on an as-needed basis?

thought would have occurred if -- if Mr. Gantkessy received this money. Now, did you ever get any report indicating that Mr. Rasmusson or Andrew Gantkessy was charged with criminal violations of tax laws?

MR. ROBINSON: Object to the form of the question. You misstated -- mischaracterized previous testimony. I think what Agent Wilczewski has testified to is what Agent -- Gantkessy told the agents that interviewed Mr. Gantkessy. And it's a compound question.

Q (By Ms. Sheppard) Now, did Mr. Gantkessy tell you that he violated tax laws?

A I never spoke to Mr. Gantkessy.

Q Did you read any reports where Mr. Gantkessy said he violated tax laws?

A I don't recall reading any reports that said Mr. Gantkessy violated tax laws.

Q Now, did any charge of the task force -- financial task force bring any charges against Mr. Gantkessy or Mr. Rasmusson as a result of any information they received

from Mr. Gantkessy during the June 2nd, 1993 interview of Mr. Gantkessy?

A I don't recall any charges being brought against Mr. Gantkessy.

Q Why not?

MR. ROBINSON: I'll object to the form of the question. That has to do with the prosecutor

discretion at the U. S. Attorney's office. The U. S. Attorney's office brings charges, not the U. S. Customs Service.

Q (By Ms. Sheppard) Now, were any charges brought against Mr. Gantkessy or Mr. Rasmusson as a result of the interview with Mr. Gantkessy on June 3rd, 1993 pertaining to tax evasion?

A No, ma'am.

Q Were any charges brought pertaining to money laundering or -- or violations of Bank Secrecy Act as a result of, first, the interview of June 2nd, 1993?

A No, ma'am.

Q Were any charges brought against Mr. Gantkessy or Mr. Rasmusson or any of the

other plaintiffs pertaining to violations of the mail fraud statutes?

A No, ma'am.

Q Any charges brought pertaining to violations of kickback schemes?

A No, ma'am.

Q Okay. Now, was Mr. Gantkessy -- Gantkessy ever a suspect in any Federal violation over which the Customs Service has authority, has jurisdiction?

A Possibly, yes, ma'am.

Q Well, what charge?

A I don't recall any charges, ma'am.

Q What -- what were you investigating? What was Customs Service, the financial task force, investigating? What type of violation against Mr. Gantkessy?

MR. ROBINSON: I'll object to the form of the question. You're mischaracterizing prior testimony. I don't think that's ever been stated in prior testimony.

Q (By Ms. Sheppard) Did you read any reports where the financial task force or the

Customs Service indicated that Mr. Gantkessy had violated any of the Customs -- any Federal violation over which the Customs Service has jurisdiction?

A I don't recall reading any reports that had that in that, no, ma'am.

Q Okay. Now, were you aware that Special Agent Frost and the financial task

force intended to confront and interview Andrew Gantkessy in his office with five or six agents on June 6, 1993?

MR. ROBINSON: Object to the form of the question. You're mischaracterizing previous testimony.

Q (By Ms. Sheppard) Were you aware of the fact that Special Agent Frost and the financial task force had planned a meeting for June 2nd, 1993 with Mr. Andrew Gantkessy?

A I may have been. I don't specifically remember what their plans were. So I don't know that I was aware before they went to do their interview. I can't recall that exactly, no, ma'am.

Q Well, do you recall whether you

MR. ROBINSON: Repeat that question one more time, please.

Q (By Ms. Sheppard) During the searches of the Rasmark office and the Rasmusson home, did the task force agent find any significant evidence of Federal crimes pertaining to drug smuggling or money laundering involving either Mark Rasmusson or Deborah Rasmusson?

MR. ROBINSON: I object to the form of the question to the extent you have significant evidence. That's a vague question.

Q (By Ms. Sheppard) During the entire course of the Rasmark investigation from March 1992 to April 94, the period of

time you were the group supervisor, was Mark B. Rasmusson, Deborah Rasmusson, Andrew Gantkessy or Rasmark Jet Charter, Inc. ever indicted for any charges for any of the investigation done by the task force?

A I don't believe so, no, ma'am.

Q Were you present when the OCDEFT committee decertified the larger money

IN THE UNITED STATES DISTRICT COURT

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MARK B. RASMUSSON, *
ET AL *
*
VS. * CIVIL ACTION:
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LAWRENCE E. FROST, *
ET AL *

VIDEOTAPED DEPOSITION OF

NEIL AARON BAKER

January 31, 1997

testify accurately -- accurately today?

A No, ma'am.

Q At any point during this deposition if you feel ill or for any other reason are unable to testify accurately, please tell me immediately and we shall take a recess. Is there any reason at all why you cannot testify accurately here today?

A No, ma'am.

Q Do you have any questions about what I have just told you or about this deposition?

A No, ma'am. But you're going to have to speak up. I'm hard of hearing in one -- one ear. So if I don't understand what you're saying and I ask you to repeat the question, would you please, if I don't hear.

Q Okay. Well, thank you. Thanks for letting me know. I didn't -- I didn't know that. I'll just kind of turn this direction.

Now, what is your present position at the El Paso Sheriff's Department?

A I'm a detective.

Q How long have you been employed by

the sheriff's department?

A 18 and a half years.

Q Okay. And how long have you been a detective?

A I believe 12 years.

Q 12 years. Now, prior to working for the El Paso Sheriff's Department, did -- did you have any other prior law enforcement

experience?

A I worked for -- I was a field supervisor for a security company at one time and I also attended college and majored in law enforcement.

Q Now, when were you assigned to the financial task force?

A You mean the financial task force -- I was assigned to the special operations unit. But when they -- what's the best way to put it. You're speaking in terms of like when I was assigned to the Rasmusson case. Correct?

Q Well, let's see. You were assigned to special operations --

A Back in --

Q What year?

A In 1990.

Q 1990?

A Yes, ma'am.

Q Now, at the time that you were assigned to the special operations, did El Paso Sheriff's Department already -- had already formed a multi-county task force?

A Yes, ma'am.

Q Okay. And was that task force already participating in investigations pertaining to Mark B. Rasmusson or any of the plaintiffs in this Rasmark case?

A No, ma'am.

Q Okay. Now, when did the El Paso County Sheriff's Department multi-county task force join the Federal financial task force?

A I believe January of 1993.

Q Okay. Now, when were you first assigned to assist the Federal financial task force?

A January of 1993.

Q Okay. And how many months were you assigned to the financial task force?

A I was assigned the Rasmusson case from January '93 until January or February of

1994.

Q Okay. Now, after your assignment -- did your assignment change or was the case discontinued?

A My assignment was changed.

Q Okay. And what was your assignment changed to?

A I went back to normal duties with

the -- the task force.

Q Okay. Now, did any of those normal duties pertain to any of the plaintiffs in the Rasmark case?

A No, ma'am.

Q Okay. Now, who was your supervisor for the -- on the special operations division?

A My immediate supervisor was -- at the time was Lieutenant Gary Gabbert.

Q Okay. And who was the supervisor of the El Paso Sheriff's Department task -- multi-county task force?

A It was Lieutenant Gary Gabbert was the immediate supervisor.

Q Okay. Now, was this your first time working on a Federal task force?

A No, ma'am.

Q Okay. Now, when you were assigned to this Federal financial task force, who was your supervisor on the -- on the financial task force?

A Do you mean the sheriff's department supervisor or -- my immediate supervisor was Lieutenant Gary Gabbert.

Q Okay. Now with regard to your activities on the financial task force, the Federal financial task force, who was your supervisor?

A He was still my -- my supervisor.

Q Okay. Now, how often did you report your activities pertaining to the Rasmark case to your immediate supervisor?

A Very rarely to Lieutenant Gabbert. He was my overall supervisor, but I reported

to -- to Customs on a daily basis.

Q Okay. Now, who did you report to on a daily basis with Customs?

A I generally reported in with Fred Schroeder, Special Agent Schroeder.

Q Anyone else?

A He was the one I normally reported in to. I may have reported in once or twice

to -- to his supervisor would be Mike Wilczewski.

Q Okay. Now, when you reported to your immediate supervisor for the sheriff's department, his name was Lieutenant --

A Lieutenant Gary Gabbert.

Q Gabbert?

A Gabbert, G-a-b-b-e-r-t.

Q Oh, Gabbert. Okay. Lieutenant Gabbert.

Did you give him any written reports pertaining to your activities with the financial task force?

A No, ma'am.

Q Okay. When you reported to Special Agent Fred Schroeder, did you give him written reports of your activities pertaining to the assignments given to you?

A I gave him a disc, computer disc, and he would take care of it from there. I'd -- I'd put the report on a -- have a secretary put the report on a disc and then I would give him the disc.

Q Okay. Now, did you maintain all your notes, field notes, from which you made

the disc?

A At that time, I didn't keep very -- very good field notes, so I don't think I have any of them from that period.

Q Okay. Did you print out any of the discs before giving it to Special Agent Schroeder?

A No, ma'am, I did not.

Q Did you give your immediate supervisor, Lieutenant Gabbert, a copy of this disc?

A No, ma'am.

Q Okay. Now, the period of time that you worked on the case, January '93 through February '94, did you work exclusively on the Rasmark portion of this larger money laundering investigation?

A No, ma'am. I had my normal function and plus what we had with the Rasmark case.

Q What was your normal functions?

A Well, I still conducted investigations that the sheriff's department had me conduct.

Q Okay. Now, what percentage of your

time did you spend on the Rasmark portion, this larger money laundering investigation?

A Probably 35 to 50 percent. It -- it depended.

Q Okay. Now, when you were first assigned to this Rasmark case, to -- to work on the Rasmark case, were you given a briefing on the background of Mark Rasmusson and

Rasmark Jet Charter, Inc.?

A Yes, ma'am.

Q Okay. Who gave you this briefing?

A I believe it was Fred Schroeder and Larry Frost.

Q Okay. Now, what information did they tell you during this briefing?

MR. CASTILLO: I'm going to object to the extent that the response may seek to elicit information which is protected by the grand jury privilege and, also, to any information which may be protected by the investigative privilege. You may testify as to anything that doesn't fall within those areas.

MS. SHEPPARD: Okay. Are you instructing the witness not to answer the question?

MR. CASTILLO: I'm objecting to the -- to the question to the extent that it's seeking information which is protected by the grand jury privilege and the investigative privilege.

Q (By Ms. Sheppard) Okay. Are you -- Mr. Baker, have you had any training at all in the type of materials that relate to grand jury investigation?

A I believe the question you're asking me is: Do I know about divulging grand jury information?

Q No. That's not the question I asked you.

Have you had any training in the type of material that is included in grand jury investigation?

A Yes, ma'am.

Q Okay. And my question to you: During the briefing, what information were you

given pertaining to Mark B. Rasmusson and Rasmark Jet Charter Service?

MR. CASTILLO: And I'd like to restate -- reurge the objection I stated earlier. To the extent that the question may seek information which is protected by the grand jury privilege and the

investigative privilege.

Q (By Ms. Sheppard) Okay. What information were you given that were not grand jury information?

A I was given a basic outline of the case to the point to where we -- we entered into it.

Q And what did that basic outline consist of?

A An overall -- essentially, what it was was a time line of what transpired from day one until present.

Q When was day one?

A I believe -- if my memory serves me right, about 1990. The year 1990. I -- I was given some Report of Incidents, ROIs, to look at and then that was basically what my --

my -- my briefing was, that and given other information, also.

Q Okay. Now, these reports of ROIs that you refer to, the Report of Investigation, were they prepared by the Customs Service or were they prepared by DEA?

A I believe some of it was DEA and some of it was Customs Service.

Q Okay. Did you review all of the DEA case file, the Report of Investigation, DEA6 Report of Investigation forms, pertaining to Jesus Flores investigation which included Mark B. Rasmusson?

A I've read some of the reports on that.

Q Okay. Did you review the criminal trial transcript pertaining to Mark B.

Rasmusson?

A No, ma'am.

Q Okay. What were you told was the aim and focus of the case, the Rasmark case?

A I wasn't ever told --

MR. CASTILLO: I'm going to object to the extent this question may seek to elicit any

investigative techniques.

Q (By Ms. Sheppard) Without revealing any investigative techniques, can you tell me what was the focus -- what were you told was the focus of the Rasmark investigation?

A My instructions were to assist U. S. Customs Service in anything they needed

done that they saw needed to be done. I was there to assist them. It was not a sheriff's department investigation. It was a task force investigation. And I was assigned as a member of the task force.

Q Okay. Now, were you told during this briefing, this initial briefing, what your role would be in this Rasmark portion of the larger investigation?

A I was basically told that I would assist them in what they needed done.

Q You weren't given any specific assignments at that point?

A Not at that point, no, ma'am.

Q Okay. Now, did you participate in the larger part of this money laundering investigation or did you just participate in

the Rasmark portion of the -- of the investigation?

MR. CASTILLO: I object to -- to the extent that the question is vague. It has not been identified what is the larger part of the investigation or the Rasmark part of the investigation as far as this witness is concerned. He's not been present during any prior testimony. So to that extent, I would ask that you clarify what you mean by larger part of investigation.

Q (By Ms. Sheppard) Okay. Now, were you told at the time that you were assigned to the financial task force that you were

investigating a larger money laundering organization?

A I was told it was a large money laundering organization, yes, ma'am.

Q Okay. And did you participate in any investigation of this larger money laundering organization?

A I -- I think you need to rephrase

the question. What I'm getting at is I worked a large -- other people other than the Rasmussons, yes, ma'am, if that's what you're asking.

Q Well, what I'm asking you is that the Rasmark case was adopted as part of a larger money laundering organization or investigation. Did you work on both aspects

of the case? Did you work on the larger money laundering organization or just on the Rasmark portion of this larger money laundering investigation?

A I worked mainly Rasmark, Rasmusson.

Q Okay. Now, how often did you attend briefings on the status of the overall investigation of the Rasmark portion of the case?

A I checked in everyday with the agent that was -- I guess you would call him my supervisor. I checked in everyday with him.

Q And you're speaking of --

A Fred Schroeder.

Q Okay. And did you receive

briefings on a daily basis?

A Not as much briefings as I was -- I was told what was going on. They weren't big massive briefings, no, ma'am.

Q Okay. And you were told what was going on by Special Agent Schroeder. Is that -- is that correct?

A Yes, ma'am.

Q Okay. Now, what were your specific duties during the time that you were assigned to the Rasmark portion of the financial task force investigation?

MR. CASTILLO: I would object to the extent that the question seeks to elicit any information which is protected by the investigative privilege or any

information which is protected by the grand jury privilege.

Q (By Ms. Sheppard) And without revealing information that's protected by the grand jury privilege or investigative privilege, what were your duties during the time you were assigned to the financial task force?

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A I was assigned to assist them in whatever they needed done that particular day. There was no real set assigned duties.

Q Do you remember any duties that you performed?

A I performed surveillance. I performed some trash pickups. I went down and checked some records that were public record.

Q Okay.

A I --

Q I'm sorry. Go ahead.

A I believe I was involved in one or two interviews.

Q Okay. Now, on the surveillance, did you participate in surveillance of the Rasmusson home on Leo Collins Drive?

A I've driven by there, yes, ma'am.

Q Did you participate in the surveillance of the Mark B. Rasmusson home on Dale Douglas?

A I've driven by there, yes, ma'am.

Q Okay. And you say you went -- searched the public records. What public records did you search?

A I've checked records with the

District Clerk's office reference a -- in the divorce -- I believe Debbie and Mark were going through at that time.

Q Were there any other public records that you searched?

A None that I can remember, ma'am.

Q Okay. And you stated that you also participated in interviews. What interviews did you participate in?

MR. CASTILLO: I'd object to the extent that it seeks to disclose any confidential informants.

Q (By Ms. Sheppard) Without revealing any names of confidential informants, did you interview any noninformant people?

A I -- people that I was involved in interviews with, I would consider informants.

Q Okay. Did you interview -- were you -- did you participate in the interview with Gail Beech?

A No, ma'am, I did not.

Q Did you participate in the interview with Andrew Gantkessy?

A No, ma'am, I did not.

Q Did you participate in the interview with Christopher Hines?

A No, ma'am, I did not.

Q Did you participate in the interview with Mark McAllister?

A No, ma'am, I did not.

MR. CASTILLO: At this

point, I would object to the extent that in -- in giving this witness names to identify as to whether or not he's interviewed them, an attempt may be made to reveal a confidential informant. To the extent that you're asking whether or not he's interviewed any of the parties to this lawsuit, I do not have an objection.

But I do object to providing names to -- to the witness to identify whether or not he's interviewed. Such a tactic may require disclosure of confidential informant.

along this line.

Q (By Ms. Sheppard) Well, let me ask you this question: Albert Apodaca, do you know that name?

A No, ma'am, I don't.

Q Okay. Did you participate in any of the trash pickups at the Rasmark -- at Rasmark Jet Charter, Inc. office?

A No, ma'am. Not at the office.

Q Okay. You -- you did participate, however, in trash pickups at the Rasmusson residence at Leo Collins?

A Yes, ma'am.

Q Did you participate in trash pickups at Dale Douglas, the Mark B. Rasmusson home on Dale Douglas?

A I believe I -- I may have there,

also, yes, ma'am.

Q Okay. Now, during the -- can you tell me how you conducted the trash pickup?

A I would pick up the trash from an employee of the El Paso Sanitation Department.

Q Okay. And did you get the name of the employee that you picked up the trash

from?

A No, ma'am, I did not.

Q Well, how do you maintain a chain of custody on the evidence that you picked up from the sanitation worker?

A I observed them picking it up. It never left my sight.

Q Yes. But for purposes of developing the case, did you prepare a report on who you obtained the trash from?

A No, ma'am. I just put down that we picked it up from the El Paso Sanitation Department.

Q Okay. So you did not maintain a chain of custody is what -- is that your testimony?

MR. CASTILLO: I'm going to object to -- to the characterization of the testimony. At no time did this witness testify that he did not maintain chain of custody.

Q (By Ms. Sheppard) Okay. Now, each occasion that you picked up the trash, did you write up a report indicating who the

sanitation worker -- the name of the sanitation worker that handed you the trash?

MR. CASTILLO: I'm going to object. It's been asked and answered.

Q (By Ms. Sheppard) As on each -- each occasion?

A I put on the report that I picked it up from an employee of the El Paso Sanitation Department.

Q Did you put the name of the employee?

A No, ma'am, I did not.

Q Okay. Now, over what period of time did you participate in the trash pickups pertaining to the Rasmark case?

A From probably January or February

or 1993 until December of that same year.

Q Okay. Did you participate in any trash pickups in 1996?

A No, ma'am.

Q Are you aware of any trash pickups from the Rasmusson home in 1996, around June of 1996?

A No, ma'am.

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Q Okay. Now, during any of these trash pickups, did you ever go on the premises of the Rasmark residence --

A No, ma'am.

Q -- to retrieve trash from the combiner?

A No.

MR. BAKER: Just a minute.

You said "Rasmark residence". I don't think there is such a thing.

Q (By Ms. Sheppard) Did you -- during any of the trash pickups, did you ever go on to the premises of the Rasmusson home on Leo Collins Drive to retrieve the trash from the combiner attached to the house?

A No, ma'am.

Q Okay. Did you ever observe any other law enforcement officer go on the premises of the Rasmusson home to retrieve trash from the combiner attached to the home?

A No, ma'am.

Q Now, did you submit a letter to the sanitation department prior to the trash pickups requesting approval to -- for them to

have their sanitation worker to give you the trash?

A I did not, no, ma'am.

Q Are you aware of a letter being submitted to the sanitation department to request approval for you to receive trash from the sanitation workers?

A I'm aware that there was a letter, yes, ma'am.

Q Did you ever read the letter?

A No, ma'am.

Q Okay. And who told you there was a letter?

A I believe I was told by -- I think it was either Bob Holland or Fred Schroeder.

Q Okay. Now, what type of reports did you prepare on each of the trash -- trash pickups that you conducted?

A I hand wrote a report, had our secretary put it on a disk. I gave the disk to Fred Schroeder. And I would shred up the handwritten report.

Q Now, did you ever search any of the garbage bags -- did the trash come in garbage bags or how did -- how was it -- how did you

receive it? What form?

A Sometimes it came in a garbage bag. Sometimes we would provide the sanitation department garbage bags so that it would be placed in the garbage. They would -- we'd meet them at a location and they'd give

it to us.

Q Okay. Now, did you ever assist in the inventory of the contents of these bags once you retrieved them from the sanitation department?

A Once we processed the trash, I would handwrite up notes on what was in there. I would turn the evidence over to Fred Schroeder. I would give them the disk with what we found on it and he would take care of it from there.

Q When you say you "processed the trash", how did you process the trash?

A Processing means going through it.

Q Okay. And so did you do the initial processing of the trash?

A On -- on some occasions, I did, yes, ma'am.

Q Okay. And on those occasions, did

you make a log for every item that was in that trash bag?

A I would make a report, have my secretary put it on a -- on a disk and I would give the report -- or the disk to Fred Schroeder.

Q Okay. Is that of every item that was in the trash?

A It would -- it would have an inventory of what was in the trash, yes, ma'am.

Q Okay. And did you turn the report of this log over to your immediate supervisor, Lieutenant Gabbert?

A No, ma'am.

Q Did you turn a report in to the evidence -- was there an evidence room? Where

did you keep this -- this trash that you inventoried? Once you completed the inventory, where did you put the trash?

A Once I processed the trash and took items out that -- that I thought might be of interest or value, I would put it in a bag -- first of all, I'd inventory it. I'd put it in a bag. I would then turn it over to Fred

Schroeder. At that point in time, I'd go back, make the report, handwritten report. A secretary would put it in the disk and then I'd hand him the disk.

Q Okay. And do you know where all of the items that you inventoried, where they are located today?

A No, ma'am, I do not know where

they're at.

Q Okay. Have you seen them since you did your inventory?

A No, ma'am.

Q Now, when you observed the sanitation department employees, did they collect trash from more residence than just the Rasmusson residence before you retrieved your trash?

A Yes, ma'am.

Q Okay. Now, who accompanied you on the trash pickups that you conducted?

A I was -- most of the times, I was generally alone.

Q Okay. On those occasions when you were not alone, who were with you?

A On a few occasions, my partner,

Detective Jerry Keith.

Q Anyone else?

A There may have been at a time, but I -- I don't remember.

Q Okay. Now -- excuse me.

From your inventory on the occasions that you conducted the inventory of the trash pickups, did you ever find any drugs or contraband in the trash?

A Myself?

Q Yes.

A Depends on what you want to call contraband. I picked up items that I thought were of value to the U. S. Customs case, yes.

Q What items were these?

A Items with -- it looked like

ledgers, receipts and so forth.

Q Okay. Now, have you had any training in recognizing criminal activity or documents that indicate criminal activity?

A Yes, ma'am.

Q Okay. And did you see in any of those documents that you retrieved from the trash, evidence that indicated there was drug smuggling going on?

A From what I -- I can remember what I picked up, I didn't find anything that -- that would actually say that there was drug smuggling. I mean, there is several things you look for and -- and, you know, I thought there -- from what I saw that I was trying to put together was, you know, looked promising

of some type of laundering.

Q Okay. Now, what did you see that looked promising to you of some type of laundering?

A Some of the locations where the -- the receipts were from, you know, like I found some -- I believe we found some receipts from the Cayman Islands. That's an offshore banking area there. Some other stuff that I found that -- that I can remember that I found in the trash was -- you know, looked like ledgers, but --

Q Okay. Now, did you do any type of follow-up investigation to ascertain whether this information you thought looked like it indicated something -- some kind of offshore bank account or might be a possibility, did you check it out to see if Mark B. Rasmusson

or Deborah Rasmusson or Rasmark Jet Charter, Inc. had any bank accounts in the Cayman Islands?

A I never did, no, ma'am.

Q Okay. So outside of your having mere suspicions that it might pertain to that, you never obtained any type of corroboration, did you?

A No, ma'am.

Q Okay. Now, in reference to ledgers, were you aware of the fact that Mark B. Rasmusson and Deborah Rasmusson owned a business?

A Yes, ma'am.

Q A rather successful business?

A Yes, ma'am.

MR. CASTILLO: I'm going to

object to the characterization of that. There is no evidence in the record that this was not a successful business. This is something this witness would not be aware of.

Q (By Ms. Sheppard) Okay. You were aware of the fact that they owned a jet

charter service?

A Yes, ma'am.

Q And you were aware of the fact that a business maintains ledgers and other business records?

A Yes, ma'am.

Q Now, the ledgers that you saw in the trash, were they pertaining to Rasmark Jet

Charter, Inc. business?

A Yes, ma'am.

Q Okay. Would you find that to be unusual that the Rasmark Jet Charter, Inc. would have ledgers?

A I would find it unusual being at your house, yes, ma'am.

Q Well, is there a law saying the owner can't take his business records home with him if he choose to?

A No, ma'am.

Q Okay. Have you ever owned a business, your own business?

MR. CASTILLO: I'm going to object to, first of all, the relevance. It also has -- is irrelevant to the issue of

qualified immunity for which the purpose of this deposition is being conducted.

Q (By Ms. Sheppard) Now, were any drugs found -- did you find any drugs in the trash pickups?

A I, myself, no, ma'am. I don't believe I -- I can't remember if I ever did or not.

Q Okay. Do you recall seeing any reports where drugs were -- were -- indicated drugs were found in trash pickups from the Rasmusson residence?

A I believe on at least one occasion, there was residue amount found.

Q Okay. And what type of residue amount was this?

A I believe cocaine.
Q Okay. Was that residue amount enough to indicate whether it was a user amount or a distribution amount?
MR. CASTILLO: I'd object to the form of the question in that it calls for speculation. This witness testified that he has

no personal knowledge of that and -- and only recalls having seen it in a report.
Q (By Ms. Sheppard) Well, did the report indicate whether it was an amount of -- indicating whether it was classified as a user amount or was it classified as a distribution amount?

A The best that I can remember, it never stipulated whether it was a user. It just said a trace amount was found.

Q Okay. Do you know whether the report indicated whether this trace amount was sent to a lab to be analyzed?

A No, ma'am.

Q Are you saying that it didn't indicate that it had been sent or that you know that the report indicated that it was not?

A I have no knowledge that it was sent.

Q Okay. Now, did you or anyone conduct fingerprint examinations from any objects that you found in the trash from the Rasmusson residence?

A No, ma'am. Not to my knowledge.

Q Did you conduct any fingerprint examinations from the trash collected from Mark B. Rasmusson home on Dale Douglas?

A Not to my knowledge, no, ma'am.

Q Okay. Are you aware of any trash being collected from the Rasmark Jet Charter, Inc.?

A I'm not aware of that, no, ma'am.

Q Okay. Now, during the time that you were collecting trash, did you ever suggest to your supervisor or to Special Agent Schroeder that fingerprint examinations needed to be done on some of the items that you found in the trash?

A No, ma'am.

MR. CASTILLO: I'm going --

I'm going to object, first of all, in that it's an overbroad question. You -- you asked whether or not the witness has ever objected to his supervisor, to Fred Schroeder. He's testified that he has a supervisor within the sheriff's department.

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So to that extent, I would ask that you clarify the question as to who you were asking whether or not he reported anything to.

Q (By Ms. Sheppard) Did you ever request or talk to Special Agent Schroeder about having finger -- fingerprint examinations done on any of the items that you retrieved from the -- from the trash from

Deborah Rasmusson's residence or from the Rasmusson Leo Collins residence?

A No, ma'am.

Q The same question regarding the fingerprint examinations. Did you request that Special Agent Schroeder do any fingerprints examination from trash pickups of the Dale Douglas residence?

A No, ma'am.

Q Do you recall on how many occasions you did surveillance of the Rasmusson residence on Leo Collins?

A No, ma'am.

Q Do you recall on any of those occasions whether you observed any criminal activity pertaining to money laundering or

drug smuggling taking place?

A No, ma'am.

Q Now, on the -- do you recall how many occasions you did surveillance of the Mark B. Rasmusson residence on Dale Douglas?

A No. I don't recall how many times, no, ma'am.

Q Okay. Do you recall on the occasions that you did those surveillances of the Dale Douglas address, did you see any -- did you observe any criminal activity pertaining to drug smuggling or money laundering taking place?

A No, ma'am.

Q Did you conduct any surveillances -- any surveillance of Andrew A. Gantkessy?

A Yes, ma'am.

Q Okay. And did you conduct those surveillance at his home?

A They were at his house, yes, ma'am.
Q Okay. Did you conduct any surveillance of Andrew A. Gantkessy at his employment at Ford Motor Company?
A No. I don't recall doing any

there, no, ma'am.
Q Okay. Now, what was -- were you given the purpose of the surveillance of Andrew A. Gantkessy?
A Just to drive by his house and cheek and see if he was there or not. That's --
Q Okay. On the occasion that you drove by to conduct the surveillance on Mr. Gantkessy, did you observe any type of

criminal activity pertaining to drug smuggling or -- smuggling or money laundering?

A No, ma'am.

Q Okay. How many times did you conduct surveillance on Mr. Gantkessy?

A I don't recall.

Q Well, you have no recollection?

A Numerous times is all I -- all I could tell you. I don't recall the exact number.

Q Okay. How long did the surveillances -- the surveillance activity of Mr. Gantkessy last?

MR. CASTILLO: I'm going to object to the extent that it calls

was prior testimony -- and, of course, you

weren't here, but let me ask you this question: Did you on any occasion ride on any of the Customs aircraft?

A Reference this case, no, ma'am.

Q Yes. Reference to the -- to the Rasmark portion of the investigation?

A No, ma'am.

Q Okay. Did you ride on the Customs aircraft with reference to the larger money laundering investigation?

A No, ma'am.

Q Did you participate in the execution of the search warrant of November 22nd, 1993?

A Yes, ma'am.

Q Were you aware of -- or do you -- were you aware prior to November 22nd that that search was going to take place?

A Yes, ma'am.

Q Did you review the search warrant or the affidavit for the search warrant prior to the participating the execution of the search warrant?

A No, ma'am. I did not review the

affidavit. I received a call from Special Agent Frost and he told me what was in it. And I -- the part that involved myself. And he asked is this right, and I said, yes, that's --

Q I'm sorry. He asked you what?

A He was verifying information that I provided. And I advised him that it was correct information, yes.

Q What information did you provide him?

A Reference trash pickups and so forth.

Q Okay. And you verified to him that everything that he put in his affidavit was true as it pertains to your activities?

A Yes, ma'am.

Q Okay. Now, on the occasions that you performed surveillance of the -- of the Rasmusson residence on Leo Collins, did you see any construction work taking place on any of those occasions?

A Not that I can recall, no, ma'am.

Q Okay. Did you see any individuals going in and out of the house?

A No, ma'am.

Q Okay. And did you participate in the interview of Andrew A. Gantkessy on June

2nd, 1993?

A No, ma'am.

Q Okay. Now, you said you did participate in the execution of the search warrant; is that correct?

A Yes, ma'am.

Q What was your assignment in -- on that particular occasion?

A To assist Customs in retrieving the records of -- financial records and so forth.

Q Okay. And do you know whether any drugs or contraband was found in -- in that search -- did you participate in the Leo Collins?

A No, ma'am.

Q Or the business?

A At the business.

Q Okay. Do you know whether any drugs or contraband was found at the Rasmark Jet Charter, Inc. office?

A I'm not aware of any, no, ma'am.

Q Okay. Now, did you participate

with the financial task force on the occasion of May 23rd, 1992 when Officer George Salas brought Deborah Rasmusson to the Customs office.

A No, ma'am --

Q Okay. Now, were you -- are you aware of the date when the larger money laundering case was certified as an OCEDTF case?

A No, ma'am. I have no knowledge of

that.

Q Okay. Are you aware when the larger money laundering case was decertified?

A No, ma'am.

Q Okay. Now, when you stopped working the assignment on the Rasmark portion of this larger money laundering investigation, did the El Paso Police Department also stop their participation in the financial task force?

A No, ma'am. I -- when I -- when I left, the sheriff's department gave -- presented another person to replace me.

Q Okay. Who was that person?

A That was Detective Pete Escajeda

with the sheriff's department.

Q What's that last name again?

A Escajeda.

Q Do you know how to spell that?

A E-s-c-a-j-e-d-a, I believe.

Q Okay. And how long did he stay assigned to the financial task force?

A He's still assigned there for -- for all I know.

Q Okay. Now, during the time that you worked on the Rasmark portion of the larger money laundering investigation, did you receive frequent briefings on what was going on, what -- the focus of the case, where it was heading?

MR. CASTILLO: I'm going to object. That question has been asked and answered. This witness has already testified as to he did not receive extensive briefings,

but did get updates from Agent Schroeder.

Q (By Ms. Sheppard) Let me ask you this: Did you ever express any concerns about your participation in the Rasmark portion of

the investigation to Special Agent Schroeder?

A No, ma'am.

Q Did you ever express any kind of concern about your participation in the -- thank you -- in the Rasmark investigation to your immediate supervisor, Lieutenant Gabbert?

A I expressed some concern about the time involved, but --

Q Were you ever concerned about the lack of corroboration done pertaining to the Rasmark portion of the investigation?

A No, ma'am.

Q Were you ever concerned about the lack of any type of indictments coming out of any of the financial task force investigation pertaining to the Rasmark portion of the case?

A No, ma'am. I -- I never had. I never addressed that concern. Now, my -- my supervisor was asking me, you know, not my case.

Q Okay. What did your supervisor ask you?

A He just wanted to know when there were indictments expected and --

Q What did you tell him?

A I told him none are pending right

now.

Q That none are pending?

A None that to my knowledge were pending at the -- at the moment, no.

Q Do you recall about when this question was asked to you?

A Oh, it was probably -- it was in the -- I believe in the winter of '93. Probably November or December.

Q Okay. Now, what do you mean when you say you were concerned about the time factor?

A Well, you know, my -- my superiors in the sheriff's office normally do not do long-term investigations. And they were expressing their concern that nothing was happening very quickly on this, but -- on this particular case. And I was -- I was getting -- from my supervisor wanting to know

when they were going to do something. And there, again, I explained to him, you know, we're there to assist. It's not our case, you know, that -- you know, I can't tell when -- when the indictments were going down or

anything else because, you know, we're still -- we're assisting. We're not the ones doing the case.

Q Okay. Now, you -- well, during the time that you worked on this Rasmark portion of the case, did you feel that your investigative experience was being fully utilized?

MR. CASTILLO: I'm going to object to the -- to the question. That's outside the scope of what

the purpose of his investigation is intended for. And that's for purposes of determining qualified immunity.

Q (By Ms. Sheppard) Now, you stated -- your counsel stated you were cross-deputized as a Federal agent; is that correct?

A I was cross-designated as a Customs officer.

Q Customs officer?

A Yes, ma'am.

Q And did you take any kind of oath when you were cross-deputized as a Customs

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

MARK B. RASMUSSON, *
ET AL *
*
VS. * CIVIL ACTION:
* EP-95-CA-475-F
LAWRENCE E. FROST, *
ET AL *

VIDEOTAPED DEPOSITION OF

GAIL BEECH

January 31, 1997

with Agent Frost on more than one occasion pertaining to Mark B. Rasmusson and his company?

A Yes.

Q Okay. Now, did you tell Agent Frost that much of the information that you were giving him were rumors that you have heard from other people?

A Yes.

Q Okay. Now, on the occasions that you had telephone conversations with Agent Frost, did he also ask you questions pertaining to Andrew Gantkessy?

A He may have. I -- I don't recall.

Q Okay. Did he ask you questions pertaining to Deborah Rasmusson?

A Yes.

Q Okay. Do you recall the nature of any of the questions that he asked you?

A I don't right now. I'm sorry.

Q Okay. Now, did Agent Frost or Agent Mills ever tell you that if you cooperated in their investigation, that Customs Service would seize the Rasmark assets?

A No.

Q Okay. Did Agent Frost ever make any comments to you in regard to if they were successful in their investigation, that they will eliminate Rasmark as a competitor?

A I don't remember that statement.

Q Okay. Was there ever any discussion with Agent Frost pertaining to the

results of -- the benefit to Arrow Freight if they were able to get information from you pertaining to Mark Rasmusson?

A No, there was not.

Q Okay. Now, was Rasmark one of your major competitors in March 1993?

MR. COLLINS: I'm going to object to the question. That doesn't have anything to with qualified immunity. That's directly part of your lawsuit against Ms. Beech herself. And I'm going to instruct her not to answer that question.

MS. SHEPPARD: It goes to the issue of credibility. Information --

MR. COLLINS: Whose credibility?

MS. SHEPPARD: Of the witness' credibility and reliability of the information.

MR. COLLINS: Well, but credibility is not one of the issues here. What is the issue here is qualified immunity.

MS. SHEPPARD: Well, the issue is whether the information given is reliable information.

MR. COLLINS: No.

MR. BAKER: No, ma'am. The question is if she -- what Agent

Frost wrote down in the ROIs is what she said. That's what the inquiry is.

MR. ROBINSON: And on behalf of the Federal defendants, that's the only issue in this case.

Q (By Ms. Sheppard) Let me ask you this question: During the course of this interview with Special Agent Frost and Eric

[End of Excerpts]